

# **Housing and Property Chamber**

## **First-tier Tribunal for Scotland**



**First-tier Tribunal for Scotland (Housing and Property Chamber)**

**Statement of Decision: Housing (Scotland) Act 2006 Section 26(1)**

**Chamber Ref: FTS/HPC/RP/17/0313**

**80 Glenacre Road, Cumbernauld, G67 2PE  
("the Property")**

**The Parties:-**

**Ms Donna Reid, residing at the property  
("the Tenant") (represented by Mr Iain Hunter of Shelter Scotland, 116 Osborne  
Street, Glasgow, G1 5QH)**

**Mr Colin Lang, 38g Townhead, Kirkintilloch, Glasgow, G66 1NL  
("the Landlord")**

The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the tribunal')  
comprised:-

**Patricia Anne Pryce - Chairing Legal Member**

**Lori Charles - Ordinary Member (Surveyor)**

### **Background**

1. On 20 October 2017, the tribunal issued a determination which stated that the Landlord had failed to comply with the duties imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 ("the Act"). On the same date, the tribunal issued a Repairing Standard Enforcement Order ("RSEO") in respect of the property. The RSEO made by the tribunal required the Landlord:-
  - (a) To replace the front door to ensure that it is wind and watertight and in all other respects reasonably fit for human habitation.
  - (b) To replace the blind in the main bedroom with another blind which does not interfere with the operation of the windows so that it is in a reasonable state of repair and in proper working order.

- (c) To install a heating system within the house which is adequate for the size of the house to ensure that the house is wind and watertight and in all other respects reasonably fit for human habitation.
- (d) To repair the locking mechanisms in the windows located in the kitchen utility room, the main bedroom and the bathroom to ensure that the windows are in a reasonable state of repair and in proper working order.
- (e) To repair or replace the window located in the kitchen utility room to ensure that it is in a reasonable state of repair and in proper working order.
- (f) To repair or replace the hot water system to ensure that it is in a reasonable state of repair and in proper working order and to produce to the Tribunal a report from a SELECT or NICEIC registered electrician confirming that this has been carried out and that the hot water system produces a sufficient and adequate hot water supply to the kitchen sink and to the bath.
- (g) To replace the floor coverings located in the kitchen and the hallway to ensure that they are capable of being used safely for the purpose for which they were designed.

The tribunal ordered that the works specified in the RSEO were to be carried out and completed within 8 weeks from the date of service of the RSEO, that is, by 27 December 2017.

2. A further inspection of the property was undertaken by the Ordinary Member (Surveyor) of the tribunal on 12 January 2018. A copy of her inspection report dated 28 March 2017 is attached. The Landlord did not attend at the inspection. The Ordinary Member found that:-
  - the front door remains unchanged daylight is still visible,
  - the blinds in the main bedroom have been re-fitted to allow the bedroom window to open,
  - electrical storage heaters have been supplied and fitted to the living room, hallway and utility room,
  - bathroom window remains difficult to open and close and unable to lock with key,
  - utility window hinges remain defective and unable to lock with key,
  - water temperature was re-tested in kitchen and bathroom – water temperature cold and water pressure in kitchen remains poor,
  - new lino has been replaced in kitchen,
  - new carpet has been replaced in hall.
3. The Landlord was provided with a copy of the Ordinary Member's re-inspection report and given the opportunity to comment thereon. However, he did not respond. The Tenant's representatives responded, agreeing with the terms of the re-inspection report and requesting that a Rent Relief Order in the amount of 90% be imposed.

## **Decision**

4. The tribunal takes the view that the Landlord has had ample time to carry out the works. The tribunal noted that in terms of the application itself, the

Tenant's representative first wrote to the Landlord about the present repairs issues in March 2017. The Landlord was given the opportunity to comment on the Ordinary Member's re-inspection report but failed to respond.

5. Accordingly, the tribunal takes the view that the Landlord's failure to implement the RSEO amounted to a breach of the RSEO. In accordance with the relevant provisions of Section 26 of the 2006 Act, the tribunal required to determine whether a Rent Relief Order should be made.
6. The tribunal took the view that most of the works required by the RSEO had been outstanding for almost five months. The tribunal took the view that these works could have easily been completed in that period of time. The tribunal took the view that the failure to carry out the works was having an impact on the Tenant's ability to fully enjoy the property. The tribunal took the view that outstanding issues regarding the inadequate heating, broken front door, windows which cannot be closed and an inadequate hot water supply presented a potential danger in terms of security and health to the Tenant and her family and was a health and safety concern. The Landlord had been made aware of the repairs issues by the Tenant's representative, one year ago.
7. The all the circumstances, the tribunal determined that they would make a Rent Relief Order (RRO). The tribunal took the view that the appropriate proportion of rent which should be subject to the RRO was 75% of the monthly rent of £375, namely £281.25 per month. The tribunal accordingly determined to make an RRO in those terms.
8. The tribunal, having made such enquiries as is fit for the purposes of determining whether the Landlord has complied with the RSEO in relation to the property, determined that the Landlord has failed to comply with the RSEO in terms of Section 26(1) of the Housing (Scotland) Act 2006 and that a notice of the failure be served on the Local Authority in which the property is situated.
9. The decision of the tribunal is unanimous.

**In terms of section 46 of the Tribunals (Scotland) Act 2014, a party aggrieved by the decision of the tribunal may appeal to the Upper Tribunal for Scotland on a point of law only. Before an appeal can be made to the Upper Tribunal, the party must first seek permission to appeal from the First-tier Tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.**

**Where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by the Upper Tribunal, and where the appeal is abandoned or finally determined by**

**upholding the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.**

**P Pryce**

**Signed**

**Date 5 March 2018**

**Patricia Anne Pryce, Chairing Legal Member**

# **Housing and Property Chamber**

## **First-tier Tribunal for Scotland**

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**First-tier Tribunal for Scotland (Housing and Property Chamber)**

**Rent Relief Order : Housing (Scotland) Act 2006 Section 27**

**Chamber Ref: FTS/HPC/RP/17/0313**

**Title Number : DMB6027**

**Flat 1/3, 161 Allison Street, Glasgow, G42 8RY**  
**("the House")**

**The Parties:-**

**Ms Donna Reid, residing at the property**  
**("the Tenant") (represented by Mr Iain Hunter of Shelter Scotland, 116 Osborne**  
**Street, Glasgow, G1 5QH)**

**Mr Colin Lang, 38g Townhead, Kirkintilloch, Glasgow, G66 1NL**  
**("the Landlord")**

**NOTICE TO: Mr Colin Lang, 38g Townhead, Kirkintilloch, Glasgow, G66 1NL**  
**("the Landlord")** In terms of their decision dated 20 October 2017, the First-tier Tribunal ("the tribunal") determined in terms of Section 26(1) of the Housing (Scotland) Act 2006 ("the Act") that the Landlord has failed to comply with the Repairing Standard Enforcement Order in relation to the property made by the Tribunal.

The Tribunal determined to make a Rent Relief Order in terms of Section 27 of the said Act reducing the rent payable under the tenancy for the property by an amount of 75% of the monthly rent (being £281.25 per calendar month of the current monthly rent of £375) which would, but for the order, be payable. The rent reduction will take effect 28 days after the last date on which the decision to make the Rent Relief Order may be appealed under Section 64 of the said Act.

**A landlord, tenant or third party applicant aggrieved by the decision of the tribunal may appeal to the Upper Tribunal for Scotland on a point of law only. Before an appeal can be made to the Upper Tribunal, the party must first seek permission to appeal from the First-tier Tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.**

Where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by the Upper Tribunal, and where the appeal is abandoned or finally determined by upholding the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.

Where such an appeal is made, the effect of the decision and of the order is suspended until the appeal is abandoned or finally determined. Where the appeal is abandoned or finally determined by confirming the decision, the Rent Relief Order will take effect 28 days after the date on which the appeal is abandoned or the decision is confirmed.

# P Pryce

Signed  
Patricia Anne Pryce  
Chairing Legal Member  
First-tier Tribunal

Date 5 March 2018