

# **Housing and Property Chamber**

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



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

#### **Statement of decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 26 (1) of the Housing (Scotland) Act 2006**

**PRHP Ref: PRHP/ML1/43/10**

**Re: The dwellinghouse situated at and known as 71 Cumbræ Drive, Motherwell, ML1 3LJ, being the subjects registered in the Land Register of Scotland under Title Number LAN173013 ("the Property")**

#### **The Parties:-**

**MR WILLIAM McPHERSON, residing at 71 Cumbræ Drive, Motherwell, ML1 3LJ ("the Former Tenant")**

**MR TAHIR AMIN, residing at 64 Aultmore Drive, Motherwell ("the Landlord")**

#### **Background**

1. On 3<sup>rd</sup> August 2010 the Private Rented Housing Committee ("the Committee") 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 Committee issued a Repairing Standard Enforcement Order ("RSEO") in respect of the Property.
2. The RSEO made by the Committee required the Landlord to:-
  - a. Carry out such works as are necessary to ensure that the gas boiler heating system within the Property is capable of being fully operated in a safe manner such as to allow the Tenant to operate normal central heating and hot water functions. The Landlord is required to produce a current Gas Safety Certificate in respect of all gas appliances within the Property including the heating system and is further required to produce an Electrical Safety Certificate for all electrics within the Property.
  - b. Repair or replace the electric shower in the bathroom so that it is in a reasonable state of repair and in proper working order.
  - c. Repair the leak below the kitchen sink so that it is in a reasonable state of repair and in proper working order.
  - d. Repair the socket below the kitchen sink so that it is in a reasonable state of repair and in proper working order.
  - e. Repair the toilet flush mechanism and to secure the toilet cistern to the wall so that the toilet is in a reasonable state of repair and in proper working order.

- f. Carry out such repairs as are necessary to ensure that the front door of the Property is wind and water tight.
  - g. Carry out such repairs to the external cellar door so that it is in a reasonable state of repair and in proper working order.
  - h. Repair the external waste pipe at the rear of the Property so that it is in a reasonable state of repair and in proper working order.
3. The Private Rented Housing Committee ordered that the works specified in the RSEO were to be carried out and completed within a period of 4 weeks from the date of service of the notice. Service of the notice of the RSEO was effected on the Landlord on 3<sup>rd</sup> August 2010.
  4. On 14<sup>th</sup> September 2010 the Committee carried out a further inspection of the Property for the purposes of ascertaining whether the said repairs required by the RSEO had been completed. The Committee determined that the repairs required had not been carried out and had not been completed.
  5. The First-tier Tribunal for Scotland arranged for a further re-inspection of the Property to be carried out on Monday 26 March 2018. On that date the surveyor member of the Tribunal inspected the Property. In attendance at the inspection were the landlord and Jose Maza who is now understood to be occupying the Property. Following the inspection of the Property the surveyor member of the Tribunal issued a written report. That written report established that (whilst some of the works required by the RSEO had been completed) many of the works required by the RSEO remained outstanding. In particular and without prejudice to the generality, the surveyor member noted that the landlord had still failed to supply gas safety certificates or electrical safety certificates for the Property.
  6. A copy of the surveyor member's report following the inspection was sent to the landlord. The landlord made no written representations in relation to the terms of that report.
  7. In all the circumstances and having regard to the evidence available to the Tribunal the Tribunal were not satisfied that the landlord has complied with the terms of the Repairing Standard Enforcement Order issued in respect of the Property dated 3 August 2010.

#### Right of Appeal

8. A Landlord or Tenant aggrieved by the decision of the Private Rented Housing committee may appeal to the Sheriff by summary application within 21 days of being notified of that decision.

#### Effect of Section 63

- 10 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, and where the appeal is abandoned or finally determined by confirming the decision, the decision and the order will be treated as having effect from the day on which the appeal is abandoned or so determined.

A Cowan

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Andrew S Cowan, Chairperson

Date 17/7/18

J Glasgow

Witness ...

Full Name

Address

Jennifer Glasgow,  
7 West George Street, Glasgow G2 1BA Occupation

Legal Secretary