

# Housing and Property Chamber First-tier Tribunal for Scotland



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

**House at 45 Killermont Road, Bearsden, East Dunbartonshire, G61 2JB**

**Case Reference FTS/HPC/RP18/1536**

**Ms Caroline Lever, 45 Killermont Road, Bearsden, East Dunbartonshire, G61 2JB (“the Tenant”)**

**Mr Abdul Rehman, 3 Windsor Street, Glasgow, G20 7NA (“the Landlord”)**

**45 Killermont Road, Bearsden, East Dunbartonshire, G61 2JB registered under Title Number DMB17733 (“the Property”).**

**Tribunal Members: Martin McAllister (Legal Member) and Kingsley Bruce, Chartered Surveyor, (Ordinary Member).**

### **Background**

1. The First-tier Tribunal for Scotland issued a Repairing Standard Enforcement Order (‘RSEO’) in respect of the Property which required the Landlord to:-

**(1) Instruct a suitably qualified central heating engineer to provide a report confirming that the hot water system is functioning. (Sections 13 (1) (c) of the 2006 Act).**

**(2) Repair and make good the hole in the bathroom floor. (Section 13 (1) (b) of the 2006 Act).**

**(3) Replace the broken glazing in the porch extension. (Section 13 (1) (b) of the 2006 Act).**

**(4) Repair and replace where necessary the bathroom tiles. (Section 13 (1) (b) of the 2006 Act).**

**(5) Repair and replace defective plasterwork in the front vestibule. (Section 13 (1) (b) of the 2006 Act).**

**(6) Repair the attic hatch. (Section 13 (1) (b) of the 2006 Act).**

**(7) Instruct an appropriately qualified specialist to investigate and repair, where necessary, the dampness in the rear bedroom and provide the Tribunal with a copy of the specialist's report (Section 13 (1) (a) of the 2006 Act).**

**(8) Provide a current Electrical Installation Condition Report for the Property including PAT testing for any portable appliances supplied by the Landlord. The Report requires to be prepared by a suitably approved electrician who is either employed by a firm that is a member of an accredited registered scheme operated by a recognised body or a self-employed member of an accredited registration scheme operated by a recognised body, or is able to complete, sign and submit to the Tribunal the checklist at Annex A of the Scottish Government Statutory Guidance on Electrical Installations and Appliances in Private Rented Property together with copies of documentary evidence in support of the checklist. (Section 13 (1) (c) of the 2006 Act).**

**The Landlord was required to comply with the repairing standard order within four months of service of it on him.**

2. The repairing standard order had been varied twice to allow more time for compliance.
3. On 17 July 2019 a determination was issued which detailed the outstanding works which required to be completed by 30<sup>th</sup> September 2019 to ensure compliance with the repairing standard order. These were as follows:
  - a) Instruct a suitably qualified heating engineer to provide a report that the hot water system is functioning.
  - b) Instruct an appropriately qualified specialist to investigate and repair, where necessary, the dampness in the rear bedroom and provide the Tribunal with a copy of the specialist's report.
  - c) Provide a current Electrical Installation Condition Report for the Property including PAT testing for any portable appliances supplied by the Landlord.
4. The ordinary member inspected the Property on 18<sup>th</sup> October and a copy of his report is attached. His report discloses that no evidence of compliance of the outstanding matters was provided or seen.
5. A copy of the reinspection was sent to the Landlord and he submitted no representations on the report.

## **Decision and Reasons**

6. The Tribunal determined that the RSEO has **not been complied with**. Accordingly the Tribunal, having made such enquiries as is fit for the purposes of determining whether the Landlords has complied with the Repairing Standard Enforcement Order, in relation to the Property concerned, determined that the Landlords have failed to fully 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.
  
7. As the original Tenant had vacated the Property it did not proceed to consider if a Rent Relief Order should be made.

## **Appeals**

**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.**

M J McAllister

Signed

Date 23<sup>rd</sup> December 2019

Martin J. McAllister  
Legal Member of the First-tier Tribunal of Scotland



**HPC Re-inspection Report**

**Property: 45 Killermont Road, Bearsden, East Dunbartonshire, G61 2JB**

**Ref No: FTS/HPC/RP/18/1536**

**Surveyor: Kingsley K Bruce, MRICS**

**Access:**

I attended for the purposes of undertaking a re-inspection the property at 10:00 on Friday 18 October 2019.

**In Attendance:**

The property was vacant and unoccupied, access was provided by a Mr Rehman who advised that he was the owner. The property was vacant and unoccupied.

**Weather:**

Conditions were generally dry and bright at the time of my re-inspection.

**Requirements of the Repairing Standard Enforcement Order (RSEO):**

Following an inspection and hearing on 20 September 2018, the tribunal determined as shown in the following extract:

- (1) Instruct a suitably qualified central heating engineer to provide a report confirming that the hot water system is functioning. (Sections 13 (1) (c) of the 2006 Act).
- (2) Repair and make good the hole in the bathroom floor. (Section 13 (1) (b) of the 2006 Act).
- (3) Replace the broken glazing in the porch extension. (Section 13 (1) (b) of the 2006 Act).
- (4) Repair and replace where necessary the bathroom tiles. (Section 13 (1) (b) of the 2006 Act).
- (5) Repair and replace defective plasterwork in the front vestibule. (Section 13 (1) (b) of the 2006 Act).
- (6) Repair the attic hatch. (Section 13 (1) (b) of the 2006 Act).
- (7) Instruct an appropriately qualified specialist to investigate and repair, where necessary, the dampness in the rear bedroom and provide the Tribunal with a copy of the specialist's report (Section 13 (1) (a) of the 2006 Act).
- (8) Provide a current Electrical Installation Condition Report for the Property including PAT testing for any portable appliances supplied by the Landlord. The Report requires to be prepared by a suitably approved electrician who is either employed by a firm that is a member of an accredited registered scheme operated by a recognised body or a self-employed member of an accredited registration scheme operated by a recognised body, or is able to complete, sign and submit to the Tribunal the checklist at Annex A of the Scottish Government Statutory Guidance on Electrical Installations and Appliances in Private Rented Property together with copies of documentary evidence in support of the checklist. (Section 13 (1) (c) of the 2006 Act).

***Following a re-inspection on 11 May 2019, works required by the RSEO which have been undertaken were noted as follows:***

- *The Contractor advised that the gas boiler had been serviced, however no report was available.*
- *The bathroom has been re-fitted and renewed, including replacement of flooring and tiled finishes.*
- *Broken glazing has been replaced.*
- *Plasterwork repairs and decoration had been undertaken in the entrance area.*
- *The roof access hatch appeared to have been repaired.*
- *The rear bedroom has been re-*
- *decorated, however no report had been obtained as required in terms of the RSEO. Debris around the exterior in the same area had been cleared.*
- *A modern consumer unit was noted, however no EICR, as required in terms of the RSEO or PAT report had been obtained prior to the re-inspection.*

**A Determination was issued, dated 17 July 2019, following the Reinspection on 11 May 2019, requiring completion of outstanding works by 30 September 2019, the outstanding matters were specified as follows:**

- (1) Instruct a suitably qualified central heating engineer to provide a report confirming that the hot water system is functioning. (Sections 13 (1) (c) of the 2006 Act).
- (2) Instruct an appropriately qualified specialist to investigate and repair, where necessary, the dampness in the rear bedroom and provide the Tribunal with a copy of the specialist's report (Section 13 (1) (a) of the 2006 Act).
- (3) Provide a current Electrical Installation Condition Report for the Property including PAT testing for any portable appliances supplied by the Landlord.

The Report requires to be prepared by a suitably approved electrician who is either employed by a firm that is a member of an accredited registered scheme operated by a recognised body or a self-employed member of an accredited registration scheme operated by a recognised body, or is able to complete, sign and submit to the Tribunal the checklist at Annex A of the Scottish Government Statutory Guidance on Electrical Installations and Appliances in Private Rented Property together with copies of documentary evidence in support of the checklist. (Section 13 (1) (c) of the 2006 Act).

**During the Re-inspection on 18 October 2019, no evidence of compliance with the foregoing matters identified as outstanding in terms of the Repairing Standards Enforcement Order was provided or seen.**

Mr Rehman contacted his daughter in law by telephone, who spoke briefly with Mr K Bruce, Ordinary Member of the Tribunal to confirm that none of the outstanding items listed above had been obtained.

**Kingsley K Bruce, MRICS  
Member  
The First Tier Tribunal for Scotland (Housing and Property Chamber)  
28 October 2019**

M J McAllister