

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

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**STATEMENT OF DECISION FOR REPAIRING STANDARD ENFORCEMENT  
ORDER (RSEO) UNDER SECTION 24 HOUSING (SCOTLAND) ACT 2006.**

Chamber Ref: RP/16/1019

Title number: GLA15656

The Property: Flat 1/2 79 Otago Street, Glasgow, G12 8NZ

**THE PARTIES:**

Ms Clare Watson, formerly Flat 1/2 79 Otago Street, Glasgow, G12 8NZ  
("the tenant")

and

Ms Indu Sinha, 26 Kilpatrick Drive, Bearsden, Glasgow, G61 4RH, per Ms  
Veoeani Krishna, her daughter and Mr Colvil Johnston, Ritehome, 350  
Glasgow Harbour Terraces, Glasgow G11 6EG, her representatives.  
("the landlord")

**THE TRIBUNAL:**

The First-tier Tribunal for Scotland (Housing and Property Chamber):  
David M Preston and Kingsley K Bruce

**Decision:**

The tribunal, having made such enquiries as are fit for the purposes of determining whether the landlord had complied with the duty imposed by section 14(1)(b) of the Housing (Scotland) Act 2006 (hereinafter referred to as "the Act") in relation to the property, and taking account of the representations by the tenant:

1. Determined that the landlord had failed to comply with the said duty; and
2. Determined to issue a Repairing Standard Enforcement Order (RSEO) under section 24(2) of the Act.

**Background:**

1. By application received 9 December 2016 the tenant applied to the First Tier Tribunal for Scotland; (Housing and Property Chamber) (hereinafter referred to as HPC) for a determination of whether the landlord had failed to comply with the duties imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 ("the Act").
2. The application by the tenant stated that she considered that the landlord had failed to comply with her duty to ensure that the house meets the repairing standard at the start of the lease and throughout its duration and in particular that the landlord had failed to ensure that:-

The installations in the property for the supply of water, gas and electricity and for sanitation, space heating and heating water are in a reasonable state of repair and in proper working order.
3. In particular the tenant complained that: following a spark from an electric socket in the living room she contacted Ritehome to advise that she had called Scottish Gas. The Scottish Gas electrician reported a number of issues of concern including an outdated fuse box with an old sticker affixed which deemed the fuse box to be "at risk" and recommending that it not be used until fault had been repaired. The electrician also inspected the Electrical Installation Condition Report (EICR) and PAT Report which had been provided to the tenant and reported that they did not appear to be valid certificates.
4. By Decision dated 14 December 2016 a Convener of HPC having delegated power for the purpose, referred the application under Section 22 (1) of the Act to the tribunal.
5. A Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act was served on both the landlord and the tenant on 6 January 2017.
6. Following service of the Notice of Referral further written representations were received from the tenant by email dated 23 January 2017 and written representations were received from the landlord dated 25 January 2017.
7. In her email of 23 January 2017 the tenant advised that she was vacating the property as of 31 December 2016 and, although it appears that the property was not actually vacated until a later date, as at the date of the inspection and hearing the tenant had removed from the property and the tribunal had issued Minute of Continuation dated 27 January 2017.
8. By letter dated 23 January 2017 the landlord confirmed that she wished matters to be conducted through her daughter Ms Krishna.

**Inspection:**

9. The tribunal inspected the property on the morning of 1 February 2017. Ms Krishna was in attendance throughout the inspection along with Mr Johnston.
10. The property was the first floor flat of a tenement property. Accommodation comprised: hallway; living room; two bedrooms; internal galley kitchen; and bathroom.
11. The inspection revealed that significant works were in progress in the property. A partition wall had been removed in order to combine the galley kitchen with the former bedroom to the rear of the property. The work was in progress and had not been completed. It was apparent that the alterations would include work to the electrical system in the flat.
12. The tribunal observed the consumer unit which was clearly in an unsatisfactory condition. There was no warning label for sticker affixed to the unit and no such sticker was shown to the tribunal. However Mr Johnston conceded such a sticker had been there.
13. The tribunal observed the electric power points in the living room and noted that the sockets situated to the right-hand side of the fireplace had been improperly installed leaving a gap. The cover plate was insecure and was not considered to be satisfactory.
14. The tribunal observed smoke and heat detectors in the property but these were not tested.
15. A series of photographs were taken and form the Schedule attached hereto.

**Hearing:**

16. Following the inspection of the property the tribunal held a hearing at Wellington House, 134–136 Wellington Street, Glasgow, G2 2XL and heard representations from Ms Krishna and Mr Johnston.
17. At the start of the hearing the convener confirmed the procedure which it was intended should be followed. He observed that the inspection of the property had revealed that it was not in a tenable condition in view of the alterations which were progress but it was also apparent from the cursory inspection carried out by the tribunal that there were issues which would require to be addressed to ensure that the electrical system met the repairing standard.
18. Mr Johnston explained that he had instructed a firm by the name of Response to obtain a EICR prior to the commencement of the tenancy. They had attended on 28 June 2016 and prepared the report, a copy of which he provided to the tribunal. The tribunal noted that the report took the form of a Domestic Electrical Installation Periodic Inspection Report dated 26 June 2016. The report had been completed by an electrician trading under the name of JLB Electrical Contractors Ltd, 19 Walnut Gate, Cambuslang, Glasgow. A copy of the Report is attached as Schedule 2 hereto. There were no accreditation logos on the report and no evidence of such accreditation.

19. The tribunal noted that the format of the report was entirely inappropriate having been completed on an out of date form. It had not been issued in accordance with the current Scottish Government Guidance on Satisfactory Provision for Detecting and Warning of Fires. There was no indication on the form that the electrician was suitably qualified or accredited as is required in terms of the said guidance.
20. Ms Krishna and Mr Johnston advised that it had been intended to carry out work either prior to or shortly after the commencement of the tenancy. The tenants had been anxious to get into the property quickly and had initially agreed that the work could proceed during the summer months when they would not be present. However they subsequently changed their minds and refused to allow access and so the work had not been progressed until after the tenants had vacated the property.
21. Ms Krishna explained that there was a service agreement with British Gas and the tenants were advised to contact them in the case of an emergency. She explained that she had not been aware of the problems as British Gas do not advise her. Mr Johnston said that when the matter had been reported to him he had dealt with it swiftly and had attended the flat along with Response. However he had now reviewed the procedure for notifying problems.

**Findings of fact:**

22. In reaching its decision the tribunal had regard to:
  - a. The application received 9 December 2016, including written statement of the tenant's mother.
  - b. Copy email correspondence between the tenant and Ritehome.
  - c. Copy tenancy agreement dated 27 June 2016.
  - d. Reports from Scottish Gas.
  - e. Email from Ms Krishna dated 25 January with written representations attached.
  - f. Copy Land Certificate Number GLA15656
23. The tribunal finds in fact that:
  - a. The tenancy between the parties was constituted by the Tenancy Agreement between the parties dated 27 June 2016.
  - b. The tenant had advised the landlord of the issues with the property and of her concerns.
  - c. The EICR which had been provided to the tenant at the commencement of the lease was inappropriate, incomplete and inaccurate.

**Reasons for the decision:**

24. It was apparent from the inspection of the property that the electrical system had a number of faults and it was clear from the inspection that the property failed to

meet the repairing standard in that regard, notwithstanding the alteration works which were underway.

25. The tribunal observed that it was likely that the works in progress would require a building warrant as they involved changes to the electrical and plumbing systems. In any event and up to date and valid EICR would be required before the property would be capable of being let.
26. The tribunal was surprised that Ritehome to whom the electrical report dated 28 June 2016 had been supplied had accepted it and not made themselves aware of the current regulations at that time. Such a report as that provided had been out of date for some considerable time prior to June 2016 and the tribunal was concerned that a professional letting agent did not appear to be aware of the proper up-to-date and current regulations. Mr Johnston may have responded to the tenants report but the property should not have been let in the condition in which it clearly had been, including as had been reported by Mr Johnston to the tribunal a warning a fixed to the consumer unit.
27. Accordingly the tribunal determined to issue a RSEO to require the landlord to obtain an up-to-date and valid EICR and to lodge same with the tribunal.
28. The tribunal considered that in view of the alterations being carried out to the property that a period of eight weeks from the date on which the RSEO is served upon the landlord would be a reasonable time for completion of that work and for the production of a valid certificate.

**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.

David Preston

Chairman

7 February 2017



Exterior



Consumer Unit 1



Consumer Unit 2



Socket 1



Socket 2

Glasgow, 7 Feb 2017

This is the Schedule 1 referred to in the foregoing Decision

David Preston

..... Chairman



Socket 3









SCHEDULES

CIRCUIT DETAILS										TEST RESULTS													
Circuit number and phase	Circuit designation <small>* To be completed only where the consumer unit is remote from the origin of the installation. Record details of the circuit supplying this consumer unit in the field box.</small>	Type of wiring (see code below)	Reference Method (see Appendix 4 of BS 7671)	Number of points served	Circuit conductors: Live (mm <sup>2</sup> )	Circuit conductors: CPC (mm <sup>2</sup> )	Max. disconnection time permitted by BS 7671 (s)	Overcurrent protective devices			RCD Operating current, I <sub>Δn</sub> (mA)	Circuit impedances (Ω)			Insulation resistance (MΩ)			Maximum fault loop impedance, Z <sub>s</sub> (Ω)	RCD operating times				
								BS (EN)	Type No	Rating (A)		R <sub>s</sub> (Line) (Ω)	R <sub>s</sub> (Neutral) (Ω)	R <sub>s</sub> (Equip) (Ω)	R <sub>1</sub> + R <sub>2</sub>	R <sub>1</sub>	R <sub>2</sub>		Line/Line (MΩ)	Line/Neutral (MΩ)	Line/Earth (MΩ)	at 1s*	at 50ms (if applicable)
1	Cooker	A	C	1	6	4	0.2	60898 MCB	B	32	N/A	1.37	N/A	N/A	N/A	0.19	N/A	> 999	> 999	> 999	0.24	18	13.6
2	Immiser	A	C	1	2.5	1	0.2	60898 MCB	B	16	N/A	2.73	N/A	N/A	N/A	0.24	N/A	> 999	> 999	> 999	0.33	18	13.6
3	Spare	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
4	Smoke detector	A	C	1	1.5	1	0.2	60898 MCB	B	6	N/A	7.28	N/A	N/A	N/A	0.48	N/A	> 999	> 999	> 999	0.49	18	13.6
5	Spare	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
6	Spare	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7	Lights	A	C	1	1.5	1	0.2	60898 MCB	B	6	N/A	7.28	N/A	N/A	N/A	0.46	N/A	> 999	> 999	> 999	0.50	18	13.6
8	Sockets	A	C	1	2.5	1.5	0.2	60898 MCB	B	32	N/A	1.37	N/A	N/A	N/A	0.25	N/A	> 999	> 999	> 999	0.28	18	13.6
9	Washing Machine	A	C	1	2.5	1.5	0.2	60898 MCB	B	26	N/A	1.88	N/A	N/A	N/A	0.20	N/A	> 999	> 999	> 999	0.26	18	13.6
10	Shower	A	C	1	10	6	0.2	60898 MCB	B	40	N/A	1.09	N/A	N/A	N/A	0.11	N/A	> 999	> 999	> 999	0.15	18	N/A

Prospective fault current at consumer unit(s) kA

Designation of consumer unit(s) DB001--

Earth electrode resistance N/A

Earth fault current impedance N/A

RCD N/A

TEST INSTRUMENTS

Multi-functional Fluke

Insulation resistance > 999

Continuity 0.2

Earth electrode resistance N/A

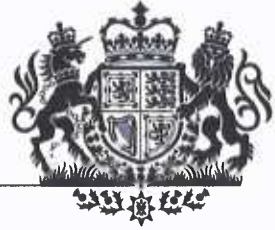
Earth fault current impedance N/A

RCD N/A

All boxes must be completed. ✓ indicates that an inspection or test was carried out and that the result was satisfactory. ✗ indicates that an inspection or a test was carried out and the result was unsatisfactory. N/A indicates that an inspection or a test was not applicable for the particular installation. UKF indicates that, exceptionally, a limited investigation with the person ordering the work (as recorded in Section D) prevented the inspection or test being carried out.



# Housing and Property Chamber First-tier Tribunal for Scotland



**Repairing Standard Enforcement Order (RSEO): Housing (Scotland) Act 2006  
Section 24**

**Chamber Ref: RP/16/1019**

**Title no/Sasines Description: GLA15656**

**The Property: Flat 1/2 79 Otago Street, Glasgow, G12 8NZ**

**The Parties:-**

**Ms Clare Watson, formerly Flat 1/2 79 Otago Street, Glasgow, G12 8NZ  
(the tenant)**

**Ms Indu Sinha, 26 Kilpatrick Drive, Bearsden, Glasgow, G61 4RH, per Ms  
Veoeani Krishna, her daughter and Mr Colvil Johnston, Ritehome, 350  
Glasgow Harbour Terraces, Glasgow G11 6EG, her representatives.  
("the landlord")**

Whereas in terms of their decision dated 7 February 2017 The First-tier tribunal for Scotland (Housing and Property Chamber) ('the tribunal') determined that the landlord has failed to comply with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 ("The Act") and in particular that the landlord has failed to ensure that:

The installations in the property for the supply of water, gas and electricity and for sanitation, space heating and heating water are in a reasonable state of repair and in proper working order.

The tribunal now requires the landlord to carry out such work as is necessary for the purposes of ensuring that the house concerned meets the repairing standard and that any damage caused by the carrying out of any work in terms of this Order is made good.

In particular the tribunal requires the landlord:-

To obtain and lodge with the tribunal a valid and up to date Electrical Installation Condition Report and to undertake any works which may be required or recommended in terms of the EICR.

The tribunal orders that the works specified in this Order must be carried out and completed within the period of 8 weeks from the date of service of this Notice.

**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.

**Please note that in terms of section 28(1) of the Act, a landlord who, without reasonable excuse, fails to comply with a RSEO commits an offence liable on summary conviction to a fine not exceeding level 3 on the standard scale. A landlord (and that includes any landlord's successor in title) also commits an offence if he or she enters into a tenancy or occupancy arrangement in relation to a house at any time during which a RSEO has effect in relation to the house. This is in terms of Section 28(5) of the Act.**

In witness whereof these presents type written on this and the preceding page are executed as follows:

David Preston

Chairing Member

Glasgow

Place of signing

7 February 2017

Date of signing

Julie McAnulty

Witness signature

JULIE MCANULTY

Witness name

1 ATLANTIC QUAY

Witness address

GLASGOW

G2 8JB