

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



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

**Reference Number: FTS/HPC/RT/18/3195**

**RE: Property at Flat 1/2, 313 Langside Road, Glasgow G42 8XU**

**(hereinafter referred to as “the Property”).**

**Title Number: GLA17071 in the Land Register of Scotland**

**The Parties:-**

**Glasgow City Council DRS Housing and Regeneration Services, 3<sup>rd</sup> Floor 79 Coplaw Street,  
Govanhill, Glasgow G42 7LG**

**(“the Third-party”)**

**And**

**Mr Atiq Ahmed, 14 Merrylee Road, Glasgow G43 2SH**

**(“the Landlord”)**

**NOTICE TO**

**Mr Atiq Ahmed, 14 Merrylee Road, Glasgow G43 2SH**

**(“the Landlord”)**

**Whereas in terms of their decision dated 14 March 2019, the First-tier 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 electricity water are in a reasonable state of repair and in a proper working order and that the Property has satisfactory provision for detecting fires and for giving warning of fire or suspected fire.**

**The First-tier Tribunal now requires the Landlord to carry out such work as is necessary for the purposes of ensuring that the Property meets the repairing standard under section 13(1) of the Act and that any damage caused by carrying out of any work required under this Order is made good.**

**In particular, the First-tier Tribunal requires the Landlord:-**

- 1) To instruct an Electrical Installation Condition Report on the Property by an appropriately qualified electrician being a member of NICEIC, SELECT or NAPIT. To carry out all works identified as either category C1 or C2 in the said Electrical Installation Condition Report in order to ensure that the Property's electrical installations are in a reasonable state of repair and in proper working order. The Electrical Installation Condition Report and all invoices for work carried out to be sent to the office of the First-tier Tribunal: Housing and Property Chamber.**
- 2) To repair or replace the current hardwired Fire Detection system to ensure that all alarms (including the heat detector in the kitchen) are interlinked.**

**The First-tier Tribunal order that works specified in this Order must be carried out and completed within the period of two months from the date of service of this Order.**

**A landlord, tenant or third-party applicant aggrieved by the decision of the tribunal may seek permission to appeal from the First-tier Tribunal on a point of law only within 30 days of the date of 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 Repairing Standard Enforcement Order (RSE) commits an offence liable on summary conviction to a fine not exceeding level 3 on the standard scale. A landlord (including any successor in title) also commits an offence if he or she or they enter into a tenancy or occupancy arrangement in relation to a house at any time during which a RSE has effect in relation to a house. This is in terms of Section 28(5) of the Act.

IN WITNESS WHEREOF, these presents typewritten on this page and the preceding page are executed by Rory A. B. Cowan, Legal Member of the First-tier Tribunal: Housing and Property Chamber at Glasgow on 14 March 2019 before this witness:

Signed A B Cowan

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Date: 14 March 2019

Rory A. B. Cowan  
K Donnelly

.....

..... Witness Date: 14 March 2019

KIRSTIE DONNELLY

..... Name of Witness

c/o 16 ROYAL EXCHANGE

.....

SQUARE, GLASGOW

..... Address of Witness

G1 3AG

# **Housing and Property Chamber**

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

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

**STATEMENT OF DECISION: Housing (Scotland) Act 2006 Section 24 (1)**

**Chamber Ref: FTS/HPC/RT/18/3195**

**Property at Flat 1/2 , 313 Langside Road, Glasgow G42 8XU**

**("The Property")**

**The Parties:-**

**Glasgow City Council DRS Housing and Regeneration Services, 3<sup>rd</sup> Floor 79  
Coplaw Street, Govanhill, Glasgow G42 7LG**

**("the Third-Party")**

**Mr Atiq Ahmed, 14 Merrylee Road, Glasgow G43 2SH**

**("the Landlord")**

**Decision**

**The First-tier tribunal for Scotland (Housing and Property Chamber) ('the tribunal'), having made such enquiries as it saw fit for the purposes of determining whether the Landlord has complied with the duty imposed by Section 14 (1)(b) in relation to the house concerned, and taking account of the written representations by the Third-Party, those on behalf of the Landlord, the inspection and representations at the hearing by the Landlord, determined that the Landlord has failed to comply with the duty imposed by Section 14 (1)(b) of the Act.**

**The Tribunal consisted of:**

**Rory A.B. Cowan – Legal Member**

**Donald Wooley – Surveyor/Ordinary Member**

## Background

- 1) By application dated 26 November 2018 the Third-Party applied to the First-tier tribunal: Housing and Property Chamber for a determination of whether the Landlord had failed to comply with the duties imposed by Section 14 (1)(b) and Section 19B(4) of the Housing (Scotland) Act 2006 ("the Act").
- 2) The application by the Third-Party stated that they considered the Landlord had failed to comply with his duty to ensure that the Property meets the repairing standard and in particular that the Landlord had failed to ensure that:-
  - a) That the Electrical Installation Condition Report (EICR) was completed by a competent person; and
  - b) That the EICR supplied by the Landlord was incomplete in that it did not record a smoke detection system as part of the electrical installations to demonstrate that the said smoke detection system was hard-wired and interlinked.
- 3) By letter dated 10 January 2019 the President of the Housing and Property Chamber intimated a decision to refer the application under Section 22 (1) of the Act to a tribunal.
- 4) The tribunal served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon the Landlord and the Third-Party.
- 5) Following service of the Notice of Referral, written representations were received from the Landlord. Prior to service of the Notice of Referral, further information was received from the Third-Party on 8 January 2019.
- 6) The tribunal inspected the Property on the morning of 25 February 2019. One of the tenants, a Mr Khan (not a party to this Application) was present and provided access. Neither the Landlord nor the Third-Party were present at the inspection.
- 7) Following the inspection of the Property, the tribunal held a hearing on 25 February 2019 at the Glasgow Tribunals Centre, Room 110, 20 York Street, Glasgow G2 8GT. The Landlord attended the hearing. The Third-Party did not attend.

## The Hearing

- 8) The Landlord submitted as follows:

### EICR

That he had instructed electrical contractors to prepare an EICR for the Property. This had been done. The contractors were Innovative Electrical Limited. A copy of the EICR dated 16 November 2018 had been produced by the Third-Party with the Application. That following comment on the omission of the smoke detection system from the EICR, he had spoken to a James

Samain of Innovative Electrical Limited who had advised that the omission of the fire detection system from the EICR was an error by them and that it had been tested. Following that discussion, the Landlord understood that Mr Samain would be in contact with a Mr Dundas of the Third-Party to confirm and explain. The Landlord showed the Tribunal copies of emails from on or around 7 January 2019 he had from Mr Samain via his mobile phone, although these emails were not formally produced or lodged with the Tribunal. No additional information in terms of test results or an amended EICR was produced by the Landlord. The Landlord was unable to confirm that Innovative Electrical Limited were registered with either SELECT, NICEIC or NAPIT. The terms of the Application were that contractors were not so registered and checks by the Tribunal confirmed that position. Appended to the EICR was the checklist as detailed in the Scottish Government's guidance on electrical installations and appliance in private property that had been completed by Innovative Electrical Limited, certifying that they could provide evidence of their competence as listed in the said checklist. The Landlord suggested that he had spoken to Mr Samain who had stated that he was happy to provide it, but that he would not append it to the EICR as a matter of course. Notwithstanding, the Landlord was unable to confirm that this had been done and he was separately unable to produce any such evidence of competence in that it had not been provided to him by Mr Samain.

#### Fire Detection System

The Landlord stated that the Smoke Detectors and the heat detector in the Kitchen were hard-wired and interlink. It was explained to the Landlord that, at the earlier inspection, the system had been tested and whilst the smoke detectors in the living room and the hall way appeared to be interlinked, the heat detector in the kitchen did not appear to be interlinked. The Landlord indicated that he had been at the Property approximately 3 weeks prior to the inspection with his electrician and they had been tested then and were in working order. He indicated that, following the hearing, he would visit the Property with a view to resolving any issues there may be with the Fire Detection System.

#### **Summary of the issues**

- 9) The issues to be determined are whether:
  - a) 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 a proper working order.
  - b) That the Property has satisfactory provision for detecting fires and for giving warning of fire or suspected fire.

## Findings of fact

10) The tribunal finds the following facts to be established:-

- a) That there is tenancy for the purposes of section 14(1) of the Act.
- b) That the tenancy commenced on or around 12 July 2018.
- c) That the Property is a first-floor self-contained purpose built flat within a 3 storey traditional sandstone tenement constructed around 1900. Access to the flat is taken from a common entry close shared with 4 other properties
- d) That there are within the Property wall mounted and hard-wired smoke detectors in both the living room and hall.
- e) That there is a heat detector in the kitchen that is attached to a suspended panel ceiling is a heat detector which is also hard-wired.
- f) That the smoke and heat detectors were all functional.
- g) That the smoke detectors were inter-linked
- h) That the heat alarm in the kitchen was functional although was not linked to either of the smoke detectors.
- i) That the EICR provided was issued by a contractor who was not registered with any of the three accredited bodies as defined under Annex A, (Competent Person) of the "Scottish Government guidance on electrical installations and appliances in private rented property".
- j) That no vouching was provided to confirm "evidence of competence" that the contractor had the necessary skill and appropriate insurance to complete the report or satisfy all of the items in the "Scottish Government Statutory Guidance" checklist.
- k) That the EICR was incomplete in that it failed to record the Smoke Alarms or the heat detector as part of the electrical installations or record any test results for the applicable electrical circuits for same.
- l) That the EICR provided by the Landlord is invalid and it therefore cannot be said that the installations in the Property for the supply of electricity cannot be said to be in a reasonable state of repair and in a proper working order.
- m) That the Property does not have satisfactory provision for detecting fires and for giving warning of fire or suspected fire.

## Reasons for the decision

- 11) The tribunal was not satisfied that the installations in the Property for the supply of electricity were in a reasonable state of repair and in a proper working order for the following reason:
  - a) An EICR was provided although the electrical contractor was not registered with any of the three accredited bodies as defined under Annex A, (Competent Person) of the "Scottish Government guidance on electrical installations and appliances in private rented property".
  - b) Despite requests from the Third-Party, no vouching was provided to confirm "evidence of competence" that the contractor had the necessary skill and appropriate insurance to complete the report or satisfy all of the items in the "Scottish Government Statutory Guidance" checklist.
  - c) The EICR itself did not record all the electrical circuits within the Property or their test results – in particular, the circuits relating to the Fire Detection system.
- 12) The tribunal was not satisfied that the Property had satisfactory provision for detecting fires and for giving warning of fire or suspected fire for the following reason:
  - a) The smoke and heat detectors were tested, and all appeared functional. During testing, the smoke detectors were clearly inter-linked with the alarm being activated in both devices when triggered individually. The heat alarm in the kitchen was functional although was not linked to either of the smoke detectors both of which remained silent when it was tested.

## Decision

- 13) The tribunal accordingly determined that the Landlord has failed to comply with his duties imposed by Section 14 (1)(b) of the Act.
- 14) The tribunal therefore decided to make a Repairing Standard Enforcement Order (RSEO) as required by section 24(1).
- 15) The decision of the tribunal was unanimous.
- 16) The Surveyor/Ordinary Member of the tribunal took several photographs which form the schedule attached to this decision.

## Observations

- 17) The Respondent should be aware that, subsequent to the inspection of the Property, the guidance in relation to Fire Detection Equipment has changed. The new guidance came into effect as at 1 March 2019 and can be found at <https://www.gov.scot/publications/fire-safety-guidance-private-rented-properties/>



This guidance is slightly different to the previous guidance and includes a requirement that all Smoke alarms and heat detectors be ceiling mounted.

### **Right of Appeal**

- 18) 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.
- 19) 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.

A B Cowan

Signed

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Date

..... 14 March 2019.....

Chairperson

**Flat 1/2, 313 Langside Road, Glasgow, G42 8XU**

**Schedule of Photographs taken at the inspection on 25<sup>th</sup> February 2019**



**Photograph 1:** Front elevation viewed from Langside Road.



**Photograph 2:** Ceiling mounted hard wired heat detector kitchen



**Photograph 3:** Wall mounted hard wired smoke detector in hall.

Glasgow 14<sup>th</sup> March 2019  
This is the Schedule of  
Photographs signed for in the  
decision dated 14<sup>th</sup> March 2019  
A B Cowan  
S. C. / 14/3/2019



**Photograph 4:** Wall mounted, hard wired smoke detector in living room



**Photograph 5:** Electrical consumer unit wall mounted in hall



**Photograph 6:** Scottish Gas Test Certificate dated 16-08-2018