

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Determination: Housing (Scotland) Act 2006: Section 24

Case Reference FTS/HPC/RP/17/0373

Mr David Smith and Ms Heather McKinnon, formerly 139 Glenacre Road, North Carbrain, Cumbernauld, Glasgow, G67 2NU ("The Tenant")

Mr Liaquat Ali, 2 Antonine Road, Dullatur, Glasgow, G68 0FE ("The Landlord")

139 Glenacre Road, North Carbrain, Cumbernauld, Glasgow, G67 2NU, Title Number DMB22852 ("The House")

Tribunal Members – Martin McAllister (Legal Member) and Debbie Scott, surveyor, (Ordinary Member)

Background

1. By application received on 16th October 2017 the Tenant applied to the Housing and Property Chamber of the First-tier Tribunal for Scotland for a determination of whether the Landlord has failed to comply with the duties imposed by Section 14 (1) (b) of the Housing (Scotland) Act 2006 as amended (the 2006 Act).
2. This Decision should be read in conjunction with the Decision dated 7th March 2018.
3. On 7th March 2018 the Tribunal issued a Direction requiring the Landlord to produce certain documentation. The Direction was in the following terms:

A current Electrical Installation Condition Report for the House including PAT testing for any portable appliances supplied by the Landlord. The Report requires to be prepared by a suitably approved electrician who either is 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. A copy of the checklist is annexed and subscribed as relative hereto.

4. On 20th April 2018 the Landlord's agent submitted an Electrical Compliance Installation Report prepared by Linn Electrical Ltd. The Landlord's agent also submitted copies of cards showing the identity of Mr Stephen McGuire, electrician and detailing his qualifications.
5. The Tribunal considered the documents submitted and the ordinary member ascertained that Linn Electrical Ltd is not a registered member of SELECT or its sister organization N.I.C.E.I.C.
6. In accordance with the Scottish Government's Statutory Guidance issued on 1st December 2016, any electrician preparing such a Certificate can opt to complete the certificate shown in Schedule A of the Guidance. No such Certificate was produced.
7. The members of the Tribunal determined to issue a repairing standard enforcement order requiring the Landlord to deliver an Electrical Installation Compliance Report prepared and signed by an electrician registered with an approved accredited registration scheme or alternatively produce the Report accompanied by a duly completed and signed Certificate in terms of Schedule A of the Statutory Guidance issued by the Scottish Government on 1st December 2016.
8. The Tribunal considered it appropriate that the documentation requires to be delivered by the Landlord within six weeks of service of the repairing standard enforcement order.

16. Determination

The tribunal made a repairing standard enforcement order in the following terms:

The Landlord is required to produce a current Electrical Installation Condition Report for the House including PAT testing for any portable appliances supplied by the Landlord. The Report requires to be prepared by a suitably approved electrician who either is 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 issued on 1st December 2016 together with copies of documentary evidence in support of the checklist.

The documentation requires to be lodged with the Tribunal within six weeks of service of the repairing standard enforcement order.

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

Martin Joseph McAllister,
Solicitor, legal member of
Tribunal.
21st May 2018

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Repairing Standard Enforcement Order

Housing (Scotland) Act 2006 : Section 24

House at 139 Glenacre Road, North Carbrain, Cumbernauld, Glasgow, G67 2NU (the House)

Case Reference FTS/HPC/RP/17/0373

Mr David Smith and Ms Heather McKinnon, formerly 139 Glenacre Road, North Carbrain, Cumbernauld, Glasgow, G67 2NU ("The Tenant")

Mr Liaquat Ali, 2 Antonine Road, Dullatur, Glasgow, G68 0FE ("The Landlord")

Tribunal Members – Martin McAllister (Legal Member) and Alex Hewton (Ordinary Member)

NOTICE TO

Mr Liaquat Ali

Whereas in terms of their decision dated 21st May 2018, 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 and, in particular, that the Landlord has failed, in terms of Section 13 of the said Act to demonstrate that the installations in the house for the supply of electricity and any electrical appliances supplied by the Landlord are in a reasonable state of repair and in proper working order

the tribunal now makes a repairing standard enforcement order (RSEO) in the following terms:

and requires the Landlord to carry out such work as is necessary for the purposes of ensuring that the Property meets the repairing standard in terms of Section 13 of the said Act and that any damage caused by the carrying out of any work in terms of this Order is made good.

The tribunal requires the following:

The Landlord is required to produce a current Electrical Installation Condition Report for the House including PAT testing for any portable appliances supplied by the Landlord. The Report requires to be prepared by a suitably approved electrician who either is 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 issued on 1st December 2016 together with copies of documentary evidence in support of the checklist.

The documentation requires to be lodged with the Tribunal within six weeks of service of the repairing standard enforcement order.

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 typewritten on this and the preceding page are executed by Martin Joseph McAllister, solicitor, legal member, chairperson of the tribunal at Kilwinning on 21ST May 2018 before Kayleigh Guthrie, witness, 83 Main Street, Kilwinning.

M J McAllister

K Gurthie