

# Housing and Property Chamber

## First-tier Tribunal for Scotland

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

### **REPAIRING STANDARD ENFORCEMENT ORDER**

**Ordered by the Tribunal**

**RE: All and Whole the dwelling house known as 9A Rannoch Drive, Renfrew PA4 9AB registered in the Land Register and having Title No REN101487 (hereinafter referred to as "the House")**

#### **The Parties:**

**Renfrewshire Council, Renfrewshire House, Cotton Street, Paisley PA1 1BR ("the Third Party")**

**Nasier Elnasr or Elnasri, 1203 Tyburn Road, Birmingham B24 0TE ("the Landlord")**

#### **Tribunal Members:**

John McHugh (Chairman) and Donald Wooley (Ordinary (Surveyor) Member).

**Tribunal Ref: FTS/HPC/RP/19/3118**

### **NOTICE TO NASIER ELNASR OR ELNASRI**

WHEREAS in terms of their decision dated 20 December 2019 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 to ensure that the House meets the repairing standard in that:

*"(a) the house is wind and water tight and in all other respects reasonably fit for human habitation,...*

*(c) the installations in the house 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,...*

*(f) the house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire."*

The Tribunal now requires the Landlord to carry out such work as is necessary for the purposes of ensuring that the House 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:

1 Provide a current Landlords' Gas Safety Certificate prepared by a Gas Safe registered engineer confirming that the gas central heating system and any other gas appliances within the Property are in safe working order.

2 Provide a current Electrical Installation Condition Report (EICR) prepared by a SELECT, NICEIC or NAPIT registered electrician confirming that the electrical installations within the Property are in safe working order and in particular identifying no faults in Categories C1 or C2.

3 Obtain a detailed damp report from a suitably qualified contractor to identify the extent of the damp within the bedrooms and its cause. Undertake all necessary repairs to ensure that the House is wind and watertight and in all respects reasonably fit for human habitation.

4 Install appropriately located smoke detectors within the living room and hall and a heat detector within the kitchen, ensuring that they are powered in accordance with the Housing (Scotland) Act 2006 (Modification of the Repairing Standard) Regulations 2019.

The Tribunal orders that the works specified in this Order must be carried out and completed within 42 days from the date of service of this Notice.

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 the decision was sent to them.

Where such an appeal is made, the effect of the decision and 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.

IN WITNESS WHEREOF these presents typewritten on this and the two preceding pages are signed by John Miller McHugh, Chairperson of the Tribunal at Edinburgh on the Twentieth day of December Two Thousand and Nineteen in the presence of the undernoted witness:

J McHugh

Chairperson

Witness J Finlayson

Witness Address

# **Housing and Property Chamber**

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

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

**STATEMENT OF DECISION OF THE TRIBUNAL  
UNDER SECTION 24(1)  
OF THE HOUSING (SCOTLAND) ACT 2006**

**In connection with**

**Property at 9A Rannoch Drive, Renfrew PA4 9AB (hereinafter referred to as "the House")**

**The Parties:**

**Renfrewshire Council, Renfrewshire House, Cotton Street, Paisley PA1 1BR ("the Third Party")**

**Nasier Elnasr or Elnasri, 1203 Tyburn Road, Birmingham B24 0TE ("the Landlord")**

**Tribunal Members:**

**John McHugh (Chairman) and Donald Wooley (Ordinary (Surveyor) Member).**

**Tribunal Ref: FTS/HPC/RP/19/3118**

### **DECISION**

The Tribunal, having made such enquiries as are fit for the purposes of determining whether the Landlord has complied with the duty imposed by section 14(1)(b) of the Housing (Scotland) Act 2006 (hereinafter "the Act") in relation to the House, and taking account of the evidence led on behalf of the parties at the inspection and hearing and of the written documentation attached to the application and submitted by the parties, determined that the Landlord had failed to comply with the duty imposed by section 14(1)(b) of the Act.

## Background

By application dated 2 October 2019 (hereinafter referred to as "the Application") the Third Party applied to the Tribunal for a determination of whether the Landlord had failed to comply with the duties imposed by section 14(1)(b) of the Act.

The Application stated that the Third Party considered that the Landlord had failed to comply with the duty to ensure that the House meets the repairing standard and, in particular, that the Landlord had failed to ensure compliance with the following paragraphs of section 13(1) of the Act:

*"(a) the house is wind and water tight and in all other respects reasonably fit for human habitation,...*

*(c) the installations in the house 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,...*

*(f) the house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire."*

The Third Party complained that: the House was affected by dampness in the external wall of the first bedroom on the left as the House is entered; there are no heat detectors or smoke alarms; there is no Landlords' Gas Safety Certificate; and there is no Electrical Installation Condition Report.

By letter of 5 November 2019, the President of the Tribunal intimated a decision to refer the application under section 23(1) of the Act for determination.

The Tribunal comprised the following members:

John McHugh, Chairperson  
Donald Wooley, Ordinary (Surveyor) Member.

The Tribunal served Notice of Referral in terms of Paragraph 1 of Schedule 2 to the Act upon the Landlord and the Tenant.

On or around 18 November 2019, the Tribunal was advised that the tenant had removed. The Tribunal issued a Minute of Continuation dated 2 December 2019.

A hearing and inspection were fixed for 17 December 2019.

The Tribunal inspected the House on 17 December 2019. The Third Party was represented by one of its officers, William Holmes. The Landlord was neither present nor represented but had made access arrangements via a neighbour.

Following the inspection, the Tribunal held a hearing at the Glasgow Tribunals Centre. Neither party was represented. The Tribunal considered the written evidence submitted by the parties.

### **Submissions at the Hearing**

Not applicable.

### **Summary of the Issues**

The issue to be determined is whether the House meets the repairing standard as laid down in section 13 of the Act and whether the Landlord has complied with the duty imposed by section 14(1)(b).

### **Findings in Fact**

The Tribunal confined its inspection to the items of complaint detailed within the Application.

The Tribunal made the following findings in fact:

- 1 The House is a purpose built ground floor flat within a four storey building, consisting of a hall, lounge, kitchen, two bedrooms and a utility room.
- 2 Nicole Jinks and Stuart Anderson ("the Tenant") held a private residential tenancy of the House dated 23 October 2019.
- 3 The Landlord is the registered owner of the House.
- 4 The Tenant took possession of the House from 7 November 2018 and left the House on or around 18 November 2019.
- 5 The provisions of Chapter 4 of Part I of the Act apply to the tenancy.
- 6 The Third Party notified the Landlord of the defects in the House which are now the subject of the Application by letter dated 5 February 2019.
- 7 The inspection on 17 December 2019 revealed:
  - a. There is evidence of water staining to walls in both bedrooms, particularly in the first bedroom to the left as the House is entered. Moisture readings taken randomly at these areas identified moisture levels in the wall plaster ranging from 20-90%. A significant contributory factor is likely to be the broken guttering at the front elevation.

- b. There are no smoke or heat detection devices within the House.
- c. There is a gas central heating system with a boiler located in the kitchen.

A schedule of photographs taken at the inspection is attached to this Decision.

## **Reasons for the Decision**

### Dampness/Water Staining

There is evidence of dampness and water staining on the inner faces of the exterior walls of both bedrooms as well as on the mutual internal wall between the bedrooms. The guttering at roof level is leaking and allowing water to pond at ground level immediately in front of the front wall of the House.

### Fire Detection

No smoke or heat detection devices are present.

### Gas and Electrical Safety

No evidence has been produced to demonstrate that a Landlords' Gas Safety Certificate or Electrical Installation Condition Certificate are in existence.

### The Repairing Standard

The Tribunal considers that the condition of: the areas identified which show evidence of penetrating dampness and water damage; the absence of smoke and heat detection devices and the absence of a Landlords' Gas Safety Certificate and of an EICR all constitute breaches of the Repairing Standard.

## **Observations**

In addition to the damp areas highlighted within the Application, there is clear evidence of additional damp patches within the House and specifically within the utility room. If left untreated, this could form the basis of a separate further application.

## **Decision**

The Tribunal, considering the terms of section 13(3) of the Act, determined that the Landlord had failed to comply with the duty imposed by section 14(1)(b) of the Act.

The decision of the Tribunal was unanimous.

## **Right of Appeal**

**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 the decision was sent to them.**



### **Effect of Section 63 of the 2006 Act**

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.

John M McHugh  
Chairperson

Date: 20 December 2019

**9A Rannoch Drive, Renfrew PA4 9AB**

**Schedule of Photographs taken at the inspection on 17 December 2019**



**1. Front Elevation**



**2. Front right corner bedroom 1 damp @ 90%**



**3. Front left corner bedroom 1 damp @20%**



**4. Damp in mutual wall between bedrooms @ 30%**



**5. External damp staining front wall**



**6. Broken and leaking front gutter**



**7.**



**8.**

**7 & 8 - Living room ceiling with no visible smoke detector**



9.



10.

**9 & 10 - Kitchen ceiling with no visible heat detector**



11.

**Hall ceiling with former base of a previous smoke detector since removed**