

# Housing and Property Chamber

## First-tier Tribunal for Scotland

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### **Statement of Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber)**

(Hereinafter referred to as “the tribunal”)

**Under Section 26(1) of the Housing (Scotland) Act 2006 (“the Act”)**

**Case Reference Number: FTS/HPC/RT/19/2690**

**Re: Flat 1/01, 12 Lorne Street, Glasgow G51 1DP (“the house”)**

**Land Register Title No: GLA116934**

#### **The Parties:-**

**Glasgow City Council - Private Housing DRS, c/o 2<sup>nd</sup> floor, 231 George Street, Glasgow G1 1RX (“the third-party applicant”)**

**Mr Winston Moodie, residing at the house (“the former tenant”) (non-participating party)**

**Mr Mohammed Nassim Naim, 36 Newark Drive, Glasgow G41 4PZ (“the landlord”)**

**Tribunal Members – Sarah O’Neill (Chairperson); Lori Charles (Ordinary (Surveyor) Member)**

#### **Decision**

The tribunal determined that the landlord has failed to comply with the Repairing Standard Enforcement Order.

The tribunal’s decision was unanimous.

#### **Background**

1. On 13 November 2019, the tribunal issued a determination that the landlord had failed to comply with his duties under Section 14(1) (b) of the Act. On the same

date, the tribunal issued a Repairing Standard Enforcement Order (RSEO) in respect of the house.

2. The RSEO required the landlord to:

1. Provide an up to date gas safety certificate in respect of the house by a Gas Safe registered engineer, showing that all gas installations and appliances have been checked and are working safely.

2. Provide either:

a) a completed and signed checklist provided by the electrician who carried out the Electrical Installation Condition Report (EICR) dated 4 November 2019 certifying that he is competent to carry out an EICR, as required by Annex A (pages 12-13) of the [statutory guidance](#) issued by Scottish Ministers on electrical safety standards, together with the evidence of competence listed in the checklist to support this.

or

b) an up to date Electrical Installation Condition Report in respect of the house by a suitably qualified and registered SELECT or NICEIC electrical contractor, or a member of NAPIT, showing that all electrical installations, fixtures and fittings and all appliances have been checked and are working safely.

3. Provide a Minor Electrical Works Installation Certificate by a suitably qualified electrical contractor which confirms that the necessary smoke and heat alarms had been properly installed in accordance with the statutory guidance. This certificate should include confirmation that the necessary works have been carried out to ensure that the heat alarm in the kitchen is interlinked to the other smoke alarms in the hall and the living room

The tribunal ordered that the works specified in the order must be carried out and completed within the period of 6 weeks from the date of service of the RSEO.

3. The ordinary (surveyor) member of the tribunal carried out a re-inspection of the house on 10 February 2020. A copy of her re-inspection report of that date is attached to this decision. She found that:

1) a Gas Safety Certificate had been produced. However, on checking the certificate, it appeared that the engineer may not be registered as a Gas Safe Engineer.

2) a new Electrical Installation Condition Report (EICR) dated 10-02-20 was produced at the re-inspection. The new EICR had been completed by the

same engineer as before, however the electrician was not registered with SELECT, NICEIC or a member of NAPIT. This being the case the electrical engineer was required to fill out and submit a signed and dated check list.

- 3) all smoke alarms and heat detector within the flat were inter-linked and were tested during inspection. A new EICR was produced dated 10th February 2020, however no minor works certificate was provided to certify the works.
4. A copy of the re-inspection report was sent to the parties on 9 March 2020, asking them to send any written representations in response to the tribunal by 23 March 2020. No response was received from either party by email by that date.
5. The tribunal administration office was closed due to the Covid-19 pandemic on 25 March 2020. The tribunal therefore considered that it was not possible to be certain as to whether a response may have been received by post from either or both of the parties by that date. In the circumstances therefore, the tribunal wrote again to both parties by email on 18 May 2020, attaching a further copy of the reinspection report together with the original covering letter, asking them to send any response they wished to make by email by 8 June 2020.
6. No response was received from either party by that date.

#### **Reasons for decision**

7. The tribunal determines that the landlord has failed to comply with items 1, 2 and 3 of the RSEO. As outlined above, he has failed to provide a gas safety certificate produced by a registered Gas Safe Engineer as required by item 1 of the RSEO. The EICR dated 10 February 2020 was not produced by an electrician registered with SELECT, NICEIC or a member of NAPIT in terms of item 2b) of the RSEO. The landlord has not produced a completed and signed checklist from the electrician who carried out the EICR, together with the evidence of competence to support this, as required under item 2a) of the RSEO. The landlord has also failed to produce a Minor Electrical Works Installation Certificate by a suitably qualified electrical contractor regarding the installation of the smoke and heat alarms, as required by item 3 of the RSEO.

#### **Decision**

8. The tribunal, having made such enquiries as are fit for the purposes of determining whether the landlord has complied with the RSEO, therefore determines that the landlord has failed to comply with the RSEO in terms of section 26(1) of the Act, and that a notice of this failure should be served on the local authority in whose area the property is situated.

9. The tribunal did not consider whether a Rent Relief Order should be made in terms of section 27 of the Act, as the former tenant no longer resides at the house.

### **Rights of Appeal**

10. 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.
11. 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 will be treated as having effect from the day on which the appeal is abandoned or so determined.

S O'Neill  
**Signed**  
**Chairperson**

Date.....29/6/20....