

Housing and Property Chamber

First-tier Tribunal for Scotland



STATEMENT OF DECISION TO ISSUE A NOTICE OF FAILURE UNDER SECTION 26(1) OF THE HOUSING (SCOTLAND) ACT 2006.

Chamber Ref: FTS-HPC-RP-16-1019

Title Number: GLA15656

The Property

Flat 1/2, 79 Otago Street, Glasgow G12 8NZ (“the property”)

The Parties:-

Ms Clare Watson, formerly Flat 1/2 79 Otago Street, Glasgow, G12 8NZ
 (“the applicant and former 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 First-tier Tribunal for Scotland (Housing and Property Chamber) members:

David M Preston, Legal Member; and Kingsley Bruce, Ordinary Member
(surveyor)
 (“the tribunal”)

Decision:

The tribunal, having made such enquiries as are fit for the purposes of determining whether the landlord had complied with the terms of the Repairing Standard Enforcement Order (hereinafter referred to as the “RSEO”) dated 11 March 2017 issued in terms of section 26(1) of the Housing (Scotland) Act 2006 (hereinafter referred to as “the Act”) determined: that the landlord had failed to carry out the works specified in the RSEO; and that a Notice of Failure should be sent to the Local Authority in terms of section 26(2)(a) of the Act.

Reasons:

1. The RSEO dated 11 March 2017 required the landlord to obtain a valid and up to date Electrical Installation Condition Report (EICR) and to undertake any works which may be required or recommended in terms thereof.
2. On 4 May 2017 the landlord's agent submitted an Electrical Installation Condition Report (EICR) dated 14 April 2017 which is attached hereto as Schedule 1. Although the EICR states that the installation complies with BS7671 and is generally in good condition, and is assessed overall as 'satisfactory', it contains an observation at Section K regarding the external supply cable from Bemco which requires to be upgraded, which observation is classified 'C3' as 'Improvement recommended'.
3. On 13 and 25 July emails were sent to the landlord and her agents drawing attention to the observations in section K and advising that the RSEO required that all works required or recommended in the EICR are to be undertaken. They were further advised that until that was done and a suitable certificate confirming that it is done is submitted, the RSEO will remain in place and that it is open to the tribunal to grant a Notice of Failure.
4. In the view of the tribunal the landlord has had sufficient opportunity to carry out the recommendation and submit a certificate, but has failed to do so and it determined to issue a Notice to the Local Authority of the failure.

Review of tribunal's decision:

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 leave to appeal from the First-tier tribunal. That party must seek permission to appeal within thirty days of the date when 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.

D. Preston

Chairman

15 August 2017