

# 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 26(1)**

**Chamber Ref: PRHP/RT/16/0334**

**Flat 1/3, 161 Allison Street, Glasgow, G42 8RY  
("the Property")**

**The Parties:-**

**Mr. John Dundas, DRS Housing and Regeneration Services, 3<sup>rd</sup> Floor  
Samaritan House, 79 Coplaw Street, Govanhill, Glasgow, G42 7JG  
("the Third Party Applicant")**

**Ms. Jana Lackova residing at the Property  
("the Tenant")**

**Mr. Nawaz Sattar, 45 Newlands Road, Glasgow, G43 2JH  
("the Landlord")**

**Represented by his agent:-**

**Mr. Tahir Bashir, Manager, GPS Properties, 467 Victoria Road, Glasgow, G42  
8RL**

The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the tribunal')  
comprised:-

<b>Patricia Anne Pryce</b>	-	<b>Chairing Legal Member</b>
<b>Alex Hewton</b>	-	<b>Ordinary Member (Surveyor)</b>

## **Background**

1. On 17 January 2017, the tribunal issued a determination which stated that the Landlord had failed to comply with the duties imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 ("the Act"). On the same date, the tribunal issued a Repairing Standard Enforcement Order ("RSEO") in respect of the property. The RSEO made by the tribunal required the Landlord:-

1. To replace the bath and to repair or replace the loose bath tap to ensure that the bath and the tap are in a reasonable state of repair and in proper working order.
2. To provide written confirmation from a duly qualified and registered electrician that the smoke detection device located in the kitchen is a heat detection device.
3. To relocate the carbon monoxide detector to ensure that it complies with current regulations and to provide written confirmation from a duly qualified and registered Gas Safe engineer that this has been done.
4. To repair or replace the intercom door entry system to ensure that it is in a reasonable state of repair and in a proper working order.

The tribunal ordered that the works specified in the RSEO were to be carried out and completed within 28 days from the date of service of the RSEO, that is, by 14 February 2017.

2. A further inspection of the property was undertaken by the Ordinary Member (Surveyor) of the tribunal on 28 March 2017. A copy of his re-inspection report dated 28 March 2017 is attached. The Landlord did not attend at the inspection but was represented by his agent, Mr. Bashir. The Ordinary Member found that the bath and taps had been replaced and that there was a hard-wired heat detection device in the kitchen. There was no confirmation from a duly qualified and registered electrician in relation to the heat detection device but Mr Bashir intimated that he would request this and forward it to the office. This has not been received by the tribunal. The Ordinary Member found that the carbon monoxide monitor was moved to above the door level. However, once again there was no confirmation from a duly qualified and registered Gas Safe engineer in relation to this device as required by the RSEO but again Mr Bashir intimated that he would request this and forward it to the office. This has not been received by the tribunal. The door intercom system was still not working. Mr Bashir intimated that he would request an update from the property factors and forward this to the office. This has not been received by the tribunal.
3. The Landlord and his agent were provided with a copy of the Ordinary Member's re-inspection report and given the opportunity to comment thereon. However, they did not respond. The tribunal thereafter wrote to the Landlord and his agent on 17 May 2017 requesting the information and confirmation outstanding in terms of the RSEO as described in paragraph 2 above. The tribunal warned in its letter that it required the information within 7 days of the date of the letter, failing which the tribunal would issue a failure to comply decision and report this failure to Police Scotland. To date, no reply has been received from the Landlord or his agent.

## Decision

4. The tribunal takes the view that the Landlord has had ample time to carry out the works. The tribunal noted that, in terms of the application itself, the Third Party wrote to the Landlord about the present repairs issues in September 2016. The Landlord and his agent were given the opportunity to comment on the Ordinary Member's re-inspection report but failed to respond. The tribunal afforded the Landlord and his agent a further opportunity to resolve the outstanding issues in terms of the RSEO but they failed to avail themselves of this opportunity.
5. Accordingly, the tribunal takes the view that the Landlord's failure to implement the RSEO amounted to a breach of the RSEO. In accordance with the relevant provisions of Section 26 of the 2006 Act, the tribunal required to determine whether a Rent Relief Order should be made.
6. The tribunal took the view that the works required by the RSEO had been outstanding for over five months. The tribunal took the view that these works could have easily been completed in that period of time. The tribunal took the view that the Landlord had provided no evidence to the tribunal that he had attempted to resolve the repair of the door entry system. The tribunal took the view that the failure to carry out the works was having an impact on the Tenant's ability to fully enjoy the property. The tribunal took the view that outstanding issues regarding the heat and carbon monoxide detection devices presented a potential danger to the Tenant and her family and was a health and safety concern. The Landlord had been made aware of the repairs issues by the Third Party in September 2016, over nine months ago.
7. In all the circumstances, the tribunal determined that they would make a Rent Relief Order (RRO). The tribunal took the view that the appropriate proportion of rent which should be subject to the RRO was 25% of the monthly rent of £400, namely £100 per month. The tribunal accordingly determined to make an RRO in those terms.
8. The tribunal, having made such enquiries as is fit for the purposes of determining whether the Landlord has complied with the RSEO in relation to the property, determined that the Landlord has failed to comply with the RSEO in terms of Section 26(1) of the Housing (Scotland) Act 2006 and that a notice of the failure be served on the Local Authority in which the property is situated.
9. The decision of the tribunal is unanimous.

**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.**

**T Pryce**

**Signed**

**Date 7 June 2017**

**Patricia Anne Pryce, Chairing Legal Member**

# Housing and Property Chamber First-tier Tribunal for Scotland

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

**Rent Relief Order : Housing (Scotland) Act 2006 Section 27**

**Chamber Ref: PRHP/RT/16/0334**

**Title Number : GLA28192**

**Flat 1/3, 161 Allison Street, Glasgow, G42 8RY  
("the House")**

**The Parties:-**

**Mr. John Dundas, DRS Housing and Regeneration Services, 3<sup>rd</sup> Floor  
Samaritan House, 79 Coplaw Street, Govanhill, Glasgow, G42 7JG  
("the Third Party Applicant")**

**Ms. Jana Lackova residing at the Property  
("the Tenant")**

**Mr. Nawaz Sattar, 45 Newlands Road, Glasgow, G43 2JH  
("the Landlord")**

**NOTICE TO: Mr. Nawaz Sattar, 45 Newlands Road, Glasgow, G43 2JH ("the Landlord")** In terms of their decision dated 7 June 2017, the First-tier Tribunal ("the tribunal") determined in terms of Section 26(1) of the Housing (Scotland) Act 2006 ("the Act") that the Landlord has failed to comply with the Repairing Standard Enforcement Order in relation to the property made by the tribunal.

The tribunal determined to make a Rent Relief Order in terms of Section 27 of the said Act reducing the rent payable under the tenancy for the property by an amount of 25% of the monthly rent (being £100 per calendar month of the current monthly rent of £400) which would, but for the order, be payable. The rent reduction will take effect 28 days after the last date on which the decision to make the Rent Relief Order may be appealed under Section 64 of the said Act.

**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.**

If a party seeks permission to appeal and this permission is refused, the decision will be treated as having effect from the day on which the refusal is made (unless the party then seeks permission from the Upper Tribunal to appeal the decision. In that event, if permission is refused, the decision is treated as having effect from the day on which the Upper Tribunal refuses the permission).

If permission for an appeal against the decision of the tribunal is granted, then the effect of the decision and the Rent Relief Order is suspended until the appeal is abandoned or finally determined by the Upper Tribunal. In the event that the decision is upheld, then the decision will be treated as having effect from the day on which the appeal is abandoned or so determined. The Rent Relief Order will be effective 28 days from the date on which the appeal is abandoned or so determined.

If an application for permission to appeal is received, then the tribunal will notify you of this and the eventual outcome of that application and any subsequent appeal.

T Pryce

Signed  
Patricia Anne Pryce  
Chairing Legal Member  
First-tier Tribunal

Date 7 June 2017

# Housing and Property Chamber First-tier Tribunal for Scotland



## RE-INSPECTION REPORT

**PROPERTY – Flat 1/3, 161 Allison Street, Govanhill, Glasgow, G42 8RY**



**Ref no PRHP/RT/16/0334**

**Surveyor Alex Hewton**

**Inspection** The property was inspected at 10.00am Tuesday 28<sup>th</sup> March 2017

**Access** Ms Jana Lackova (Tenant) was present and provided access to the property.

Mr Nawaz Sattar (Landlord) was not present but was represented by his Agent, Mr Tahir Bashir.

## **Repairing Standard Enforcement Order**

*In particular the Tribunal required the Landlord:-*

*1 To replace the bath and to repair or replace the loose bath tap to ensure that the bath and the tap are in a reasonable state of repair and in proper working order*

*2 To provide written confirmation from a duly qualified and registered electrician that the smoke detection device located in the kitchen is a heat detection device*

*3 To relocate the carbon monoxide detector to ensure that it complies with current regulations and to provide written confirmation from a duly qualified and registered Gas Safe engineer that this has been done*

*4 To repair or replace the intercom door entry system to ensure that it is in a reasonable state of repair and in a proper working order.*

The Tribunal ordered that the works specified in the order must be carried out and completed within the period of 28 days from the service of the notice

### **Findings on re-inspection – see attached photograph schedule below:**

The Surveyor found that the following works had been undertaken

1 The bath and taps have been replaced.

2 There is a hard wired heat detection device in the kitchen. There is no confirmation from a duly qualified and registered electrician but Mr Bashir intimated that he would request this and forward to the office.

3 The carbon monoxide monitor was moved to above the door level. Again there is no confirmation from a duly qualified and registered Gas Safe engineer but again Mr Bashir intimated that he would request this and forward to the office.

The Surveyor noted that the following works remained outstanding

The door intercom system is still not working. Mr Bashir intimated that he would request an update from the property Factors and forward this to the office.

**All photographs were taken at the re-inspection on March 28<sup>th</sup> 2017(see schedule below)**

**Comments:** This report will be submitted to the First-Tier Tribunal for Scotland (Housing and Property Chamber) for their decision.





New bath and taps



Heat alarm in Kitchen



Smoke alarm in hall



CO monitor relocated higher up

Alex Hewton FRICS  
Ordinary Member  
First –tier Tribunal for Scotland (Housing and Property Chamber)

28<sup>th</sup> March 2017

