

# Housing and Property Chamber First-tier Tribunal for Scotland



## REPAIRING STANDARD ENFORCEMENT ORDER

**Chamber Ref: FTS/HPC/RT/23/3600**

**Re: Property at 15, Paris Street, Falkirk, FK3 9BN registered in the Registers of Scotland under Title Number STG11469 ("the Property")**

### **The Parties:**

1. Falkirk Council per its employee, Mr. Craig Beatt, Private Sector Officer (Enforcement and Liaison), Housing and Communities, The Forum, Callendar Business Park, Falkirk, FK1 1XR as third-party applicant in terms of Section 22(1A) of the Act ("the Third -party Applicant");
2. Mr. Stuart Spence residing at the Property ("the Tenant") and
3. Mr. Christopher Johnston residing care of 11, Canalside Drive, Reddingmuirhead, FK2 0FA ("the Landlord")

### **Tribunal Members:**

K: Moore (Chairman) and A: McFarlane (Surveyor and Ordinary Member)

### **Notice to Landlord**

Mr. Christopher Johnston residing care of 11, Canalside Drive, Reddingmuirhead, FK2 0FA ("the Landlord")

Whereas in terms of its decision dated 4 April 2024, the First-tier Tribunal for Scotland determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 in respect of Section 13(1)(c) of the Act the First-tier Tribunal now requires the Landlord to carry out the following works or other such works as are necessary for the purposes of ensuring that the Property meets the Repairing Standard and that any damage caused by carrying out of the works in terms of the Order is made good.

The Landlord must on or before 16 May 2024 carry out all of the following:-

1. Either:

- i) With reference to the electrical installation condition report ("EICR") prepared by Aaron Mcmillan of Mcmillan Electrical Solutions Limited dated 26 October 2023, submit a certificate as set out in the checklist on Page 41 of the current Scottish Government Repairing Standard Statutory Guidance completed and signed by Aaron Mcmillan
  - Or
  - ii) Instruct a SELECT, NAPIT or NICEIC electrician (i) to carry out a full inspection of the electrical installation throughout the Property, the purpose of which inspection is to ensure that the electrical installation in the Property and the Landlord's appliances therein are safe and fit for purpose (ii) to repair, replace or renew any parts which require to be renewed, replaced or repaired to ensure the installation is fully functioning and meets current regulatory standards and (iii) thereafter to issue a complete and compliant electrical installation condition report ("EICR") and/or an Electrical Installation Certificate in accordance with Paragraph D82 of the Scottish Government statutory guidance on electrical installations and appliances in private rented property and exhibit the EICR to the Tribunal. The Report requires to have no recommendations in the C1 or C2 category, to report on the installation of smoke and heat detectors and to include testing of any portable appliances provided by the landlord present in the Property.
2. Reposition the carbon monoxide detector in the Property to ensure that it is in a position which is compliant with the current Scottish Government Repairing Standard Statutory Guidance. That is:
    - i) if ceiling mounted, it must be at least 300 mm from any wall (unless otherwise indicated by the manufacturer);
    - ii) if wall mounted, it must be positioned at least 150 mm below the ceiling and higher than any door or window in the room (unless otherwise indicated by the manufacturer)
    - iii) if positioned in a space containing the combustion appliance, it should be sited between 1m and 3m from the appliance and
    - iv) A carbon monoxide detector should not be placed in a cupboard or other small enclosed space. If this is where the appliance is, the detector should be located at the appropriate distance outwith that space. Additional guidance on the siting of carbon monoxide detectors, including enhanced coverage, can be found in BSEN 50292.
  3. Submit to the Tribunal and the Third-party Applicant proof that the carbon monoxide detector is properly positioned.

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.

Further, in terms of Section 28(1) of the Housing (Scotland) Act 2006, a landlord who, without reasonable excuse, fails to comply with a Repairing Standard Enforcement Order commits an offence liable on summary conviction to a fine not exceeding Level 3 of the standard scale, and in terms of Section 28(5) of that Act, also commits an offence if he or she enters into a tenancy or occupancy agreement in relation to a house at any time during which a Repairing Standard Enforcement Order has effect in relation to the house.

In Witness Whereof these presents printed on this and the preceding pages are subscribed by K Moore, Chairperson of the tribunal, at Glasgow on 5 April 2024 before this witness, N Moore, solicitor,

**N Moore      K moore**

