

Housing and Property Chamber First-tier Tribunal for Scotland



First-tier tribunal for Scotland (Housing and Property Chamber)

**Repairing Standard Enforcement Order (RSEO): Housing (Scotland) Act 2006
Section 24**

Chamber Ref: FTS/HPC/RT/23/0283

Property: 1st Floor Right, 2 Manor Street, Falkirk, FK1 1NH ("The property")

Title Number: STG23795

Parties:

Falkirk Council Private Sector Team, Suite 1, The Forum, Callendar Business Park, Falkirk, FK1 5XR ("the Applicant")

John McIntosh, residing at 22b Newmarket St Falkirk FK1 1JQ (the "Landlord")

And

Walter C Nichol, residing at 1st Floor Right, 2 Manor Street, Falkirk, FK1 1NH ("the Tenant")

Tribunal Members:

Paul Doyle (Legal Member)

Andrew McFarlane (Ordinary Member)

Whereas in terms of their decision dated 17 April 2023, The First-tier tribunal for Scotland (Housing and Property Chamber) ("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 ("The Act") and in particular that the landlord has failed to ensure that:-

- (a) The installations in the house for the supply of water, gas and electricity and for sanitation, space heating and heating water are not in a reasonable state of repair nor are they in proper working order in terms of Section 13(1)(c) of the 2006 Act;
- (b) The property has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire, in terms of Section 13(1)(f) of the 2006 Act.

The tribunal now requires the landlord to carry out such work as is necessary for the purposes of ensuring that the house concerned 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

- (i) Install interlinked smoke and heat detectors within the property, ensuring that they are fully functional and located and powered in accordance with the Housing (Scotland) Act 2006 (Modification of the Repairing Standard) Regulations 2019.
- (ii) Instruct a suitably qualified SELECT, NICEIC or NAPIT registered electrician to carry out a certified electrical inspection of the entire electrical installation in the property and all electrical appliances and equipment supplied by the landlord and carry out all necessary remedial works to rectify any identified C1 and C2 categorised areas. Thereafter to provide the First-tier Tribunal for Scotland (HPC) with a satisfactory EICR and PAT prepared by a suitably qualified SELECT, NICEIC or NAPIT registered contractor.

The tribunal order that the works specified in this Order must be carried out and completed within the period of 6 weeks 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 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.

Please note that in terms of section 28(1) of the Act, a landlord who, without reasonable excuse, fails to comply with a RSEO commits an offence liable on summary conviction to a fine not exceeding level 3 on the standard scale. A landlord (and that includes any landlord's successor in title) also commits an offence if he or she enters into a tenancy or occupancy arrangement in relation to a house at any time during which a RSEO has effect in relation to the house. This is in terms of Section 28(5) of the Act.

In witness whereof these presents type written on this and the preceding page are executed by P Doyle solicitor, 20 York St, Glasgow G2 8GT, legal member of the tribunal at Edinburgh on 17 April 2023 before E Doyle

E Doyle

witness

P Doyle

chairperson