

# Housing and Property Chamber First-tier Tribunal for Scotland



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

**Notice of a Decision to Vary: Housing (Scotland) Act 2006, Section 25**

**Chamber Ref: FTS/HPC/RP/17/0177**

**Land Register Title No. ANG12892**

**Property at G/R, 5 Balmore Street, Dundee, DD4 6SX  
("The Property")**

**The Parties:-**

**MS KIMBERLY EDWARDS, G/R, 5 Balmore Street, Dundee, DD4 6SX  
("the Tenant")**

**MS NADIA BASHIR, 12 Springhill Gardens, Dundee, DD4 6JF  
(represented by Baker Bradley Limited, 211B Albert Street, Dundee, DD4 6QA)  
("the Landlord")**

The First-tier Tribunal for Scotland (Housing and Property Chamber ("the tribunal") having determined on 25 January 2018 that the **Repairing Standard Enforcement Order** relative to the Property served on or around 5 July 2017 should be varied, the said **Repairing Standard Enforcement Order is hereby varied** with effect from the date of service of this Notice in the following respect:-

The period allowed for the completion of the work required by the order is extended for a period 4 weeks.

Subsection 25(3) of the Housing (Scotland) Act 2006 does not apply in this case.

**A landlord, tenant or third party applicant aggrieved by the decision of the tribunal may seek permission to appeal from the tribunal on a point of law only within 30 days of the date the decision was sent to them.**

In witness whereof these presents type written on this and the preceding page(s) are executed by Gillian Coutts Buchanan, Solicitor, 1 Atlantic Quay, 45 Robertson Street, Glasgow, G2 8JB Legal Member and Chairperson of the tribunal at Dundee on 25 January 2018 before this witness:-

J Lynch

\_\_\_\_\_ witness

G Buchanan

Chairperson

JENNIFER LYNCH name in full  
1/6 THORNTONS LAW LLP  
WHITEHALL HOUSE Address  
33 YEAMAN SHORE  
DUNDEE  
DD1 1BJ

# Housing and Property Chamber

## First-tier Tribunal for Scotland

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**STATEMENT OF DECISION: Housing (Scotland) Act 2006, Section 25**

**Chamber Ref: FTS/HPC/RP/17/0177**

**Property at G/R, 5 Balmore Street, Dundee, DD4 6SX  
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**The Parties:-**

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("the Tenant")**

**MS NADIA BASHIR, 12 Springhill Gardens, Dundee, DD4 6JF  
(represented by Baker Bradley Limited, 211B Albert Street, Dundee, DD4 6QA)  
("the Landlord")**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the tribunal'), having made such enquiries as it saw fit for the purposes of determining whether the Landlord had complied with the Repairing Standard Enforcement Order ("RSEO") in relation to the Property, determined that the Landlord should be given an extension of 4 weeks to the period allowed for completion of the works required all in terms of Section 25(1) of the Housing (Scotland) Act 2006 ("the Act").**

**Background**

1. Reference is made to the determination of the tribunal dated 5 July 2017 which determined that the Landlord had failed to comply with the duty imposed by Section 14(1)(b) of the Act in that she had failed to ensure that the Property met the repairing standard. The works required by the RSEO were: -

- (a) Instruct an RICS registered and qualified building surveyor to carry out a survey and report on the condition of the following: -

Rising damp and/or penetrating damp throughout the Property with particular reference to the hall floor, internal hall walls, external walls at the bedroom and living room. The report should include commentary on recent works carried out in the hall area.

- (b) Carry out and complete any and all repairs to the property identified in and recommended by the report referred to in paragraph (a) above and provide a copy of the report to the tribunal.

- (c) Engage a suitably qualified and registered SELECT or NICEIC electrical contractor to carry out a certificated electrical condition check (EICR) on the entire electrical installation of the Property to include testing of the fire detection equipment.
- (d) Follow the recommendations of the report referred to in paragraph (c) above to ensure that the entire system is safe and in proper working order. Provide a copy of the EICR to the tribunal.

The RSEO gave the Landlord 42 days to carry out the works.

2. On 22 September 2017 the Ordinary (Surveyor) Member of the tribunal, Mr Andrew Taylor, re-inspected the Property on behalf of the tribunal. The Tenant was in attendance. The Landlord was neither present nor represented.

The Ordinary (Surveyor) Member noted that some works had been carried out since the original inspection and issuing of the RSEO, namely:-

- (a) Further damp proofing works had been carried out to the hall floor and walls. The extent of these works was not fully apparent. However, damp meter readings were taken at the hall walls and floor and no dampness registered.
- (b) The drip at the incoming pipework had been rectified.
- (c) Decoration had been made good.

The Ordinary (Surveyor) Member noted that other works required in terms of the RSEO remained outstanding namely:-

- (a) Instruct an RICS registered and qualified building surveyor to carry out a survey and report on the condition of the following:-  
Rising damp and/or penetrating damp throughout the Property with particular reference to the hall floor, internal hall walls, external walls at the bedroom and living room. The report should include commentary on recent works carried out in the hall area.
  - (b) Carry out and complete any and all repairs to the property identified in and recommended by the report referred to in paragraph (a) above and provide a copy of the report to the tribunal.
  - (c) Engage a suitably qualified and registered SELECT or NICEIC electrical contractor to carry out a certificated electrical condition check (EICR) on the entire electrical installation of the Property to include testing of the fire detection equipment.
  - (d) Follow the recommendations of the report referred to in paragraph (c) above to ensure that the entire system is safe and in proper working order. Provide a copy of the EICR to the tribunal.
3. By email dated 10 October 2017 the Landlord's representative, Mr Rizvan Aboobaker, 211a Albert Street, Dundee, DD4 6QA, submitted representations to the tribunal. The Landlord's representations included a Report of Mr Innes Aitken of Innes Aitken Associates dated 10 October 2017 and an Electrical Installation Condition Report dated 30 April 2017 prepared by Fraser Mills, Electrician. The tribunal noted the Report of Mr Aitken, at paragraphs 8.04

and 9.02, indicated that the choked communal downpipe to the rear of the Property should be cleared/repaired. The tribunal noted that the EICR narrated three category C2 observations.

4. The tribunal, comprising Miss Gillian Buchanan, Legal Member and Chairperson and Mr Andrew Taylor, Ordinary (Surveyor) Member, inspected the Property on the morning of 9 January 2017. The Tenant was in attendance. The Landlord was not in attendance but was represented by Mr Aboobaker and Mr Bradley of Baker Bradley Limited. Photographs were taken and are contained in the Schedule attached and signed as relative hereto.

Mr Aboobaker and Mr Bradley indicated that they would not be attending the subsequent hearing. Mr Aboobaker and Mr Bradley confirmed that the choked communal downpipe referred to in Mr Aitken's report had not been cleared/repaired but that they would make arrangements for that work to be done. Mr Aboobaker provided to the Tribunal a Minor Electrical Installation Works Certificate dated 1 December 2017 prepared by "J Mylchreest", a copy of which is attached to this Decision.

5. Following the inspection of the Property the tribunal held a hearing at Caledonian House, Greenmarket, Dundee, DD1 4QX. Neither the Landlord nor the Tenant was present or represented.
6. The tribunal considered how to proceed in light of the Landlord's representations and submissions. The re-inspection revealed:
  - (a) The damp-proofing works in the hall had been satisfactorily completed, the pipework repaired and decoration made good. The Tenant indicated she was happy with the works carried out and had no further comment to make.
  - (b) That with regard to the category C2 observations noted within the EICR dated 30 April 2017, a heat detector in the kitchen had been fitted and the hall socket had been screwed back into position.
  - (c) That the Minor Electrical Installation Works Certificate dated 1 December 2017 confirmed the electrical installations in the Property now to be satisfactory.
  - (d) That with regard to the choked downpipe to the rear of the Property, the Landlord's representatives had indicated they would have the required works carried out to clear/repair the downpipe in early course.
7. Subsequent to the inspection and hearing on 9 January 2018 the Landlord's agent Mr Aboobaker, by email dated 13 January 2018, indicated to the Tribunal that work had been carried out and attached to that email photographs including two photographs of a drain with the cover thereof removed.

### **Decision**

8. The tribunal considered that substantial works had been done in compliance with the RSEO and as at the inspection and hearing on 9 January 2018 only one item of work remained outstanding, namely the choked downpipe. The tribunal considered the email of 13 January 2018 from Mr Aboobaker and the photographs attached thereto. The tribunal could not be satisfied from the photographs that the choked downpipe had been cleared as required. Taking into account the Landlord's representatives' commitment to complete the

required works, it was appropriate to give an extension to allow the Landlord (a) to undertake the works required by the Repairing Standard Enforcement Order and (b) to satisfy the tribunal that the required works have been carried out. The tribunal was of the view that an additional period of 4 weeks would be sufficient. The tribunal expects the required works to be completed within that period. The tribunal also expects the Landlord to provide to the Tribunal sufficient evidence to be satisfied that the choked downpipe has been cleared in the form of either an invoice from a suitably qualified contractor detailing the work done or a letter/supplementary report from Mr Innes Aitken of Innes Aitken Associates.

9. The decision of the tribunal was unanimous.

### **Right 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 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 and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.**

G Buchanan

Signed

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Date 25 January 2018

Legal Member and Chairperson



Flat G/R, 5 Balmore Street, Dundee, DD4 6SX  
FTS/HPC/RT/17/0177  
Schedule of Photographs – Inspection Date 9<sup>th</sup> January 2018  
Weather – Dry and overcast.

*Dundee 25.1.18  
This is the Schedule  
referred to in the  
foregoing decision.*

G Buchanan



1. The property



2. New heat detector - kitchen.



3. Secured socket in hall



4. Defective down pipe to rear



**5. Area of ponding adjacent defective downpipe**



**ELECTRICAL INSTALLATION  
CONDITION REPORT**

Contractor's Reference Number

CRN/

Issued in accordance with British Standard 7671 - Requirements for Electrical Installations as an Approved Contractor or Conformity Body enrolled with NICEIC, Warwick House, Houghton Hall Park, Houghton Regis, Dunstable LU5 5ZK

**A. DETAILS OF THE CLIENT**

Client: **BAKER BRADLEY**

Address:

Postcode

**B. PURPOSE OF THE REPORT**

This report must be used only for reporting on the condition of an existing installation.

Purpose for which this report is required: **FOR LETTING AGENCIES PURPOSES**

Date(s) on which inspection and testing were carried out: **30/4/17**

**C. DETAILS OF THE INSTALLATION**

Occupier:

Address: **5 BALMORE STREET G/R  
DUNDEE**

Postcode:

Estimated age of the electrical installation: **20** years

Description of premises: **DOMESTIC**  
domestic, commercial, industrial, other (Please state)

Evidence of alterations or additions

If yes, estimated age: **5** years

Date of previous inspection: **N/A**

Electrical Installation Certificate No or previous Periodic Inspection or Condition Report No: **N/A**

Records of installation available: **N/A**

Records held by: **N/A**

**D. EXTENT OF THE INSTALLATION AND LIMITATIONS ON THE INSPECTION AND TESTING**

Extent of the electrical installation covered by this report:

**FULL TEST**

Agreed limitations including the reasons, if any, on the inspection and testing:

**ROUTING OF CABLES  
2006 OF FITTINGS OPENED  
L-N INSULATION**

Agreed with:

Operational limitations including the reasons (see page No. )

**NONE**

The inspection and testing have been carried out in accordance with BS 7671, as amended. Cables concealed within trunking and conduits, or cables and conduits concealed under floors, in inaccessible roof spaces and generally within the fabric of the building or underground, have not been visually inspected unless specifically agreed between the client and inspector prior to the inspection.

**E. SUMMARY OF THE CONDITION OF THE INSTALLATION**

General condition of the installation (in terms of electrical safety):

**GOOD CONDITION**

Summary of the condition of the installation continued on additional pages? No  Yes Specify page No(s):

Overall assessment of the installation: **SATISFACTORY / UNSATISFACTORY\***  
(Delete as appropriate)

\* An 'Unsatisfactory' assessment indicates that dangerous (CODE C1) and/or potentially dangerous (CODE C2) conditions have been identified, or that Further investigation without delay (FI) is required

This report should have been reviewed and confirmed by the registered Qualified Supervisor of the Approved Contractor responsible for issuing it (See declaration on page 2)

This report is based on the model forms shown in Appendix 6 of BS 7671

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IMN4/

0932692

# MINOR ELECTRICAL INSTALLATION WORKS CERTIFICATE

Contractor's Reference Number

Issued in accordance with *British Standard 7671 - Requirements for Electrical Installations* by an Approved Contractor or Competing Body enrolled with NICEIC, Warwick House, Houghton Hall Park, Houghton Regis, Dunstable, UK, MK45 2JX

To be used only for minor electrical work which does not include the provision of a new circuit

CRN/

## PART 1: DETAILS OF THE MINOR WORKS

Client: **DAVEE BRADLEY**

Date minor works completed: **1.12.17**

Description of the minor works:

**EICR REMEDIATION**

Details of departures, if any, from BS 7671 (as amended)

**NONE**

Location/address of the minor works:

**5 BALMORE STREET G/E  
DUNDEE**

## PART 2: DETAILS OF THE MODIFIED CIRCUIT

System type and earthing arrangements:

TN-C-S  TN-S  TT  TN-C  II

Protective measures against electric shock:

Residual current device for the modified circuit:

BSI(R)  Type  Rating

Residual current device (if applicable):

BSI(EN)  Type  I<sub>Δn</sub>

Details of wiring system used to modify the circuit:

Reference method  csa of lives  mm<sup>2</sup> csa of cps

Where the measure for protection against electric shock is ADS, insert residual current time permitted by BS 7671:

Maximum Z<sub>s</sub> permitted by BS 7671

Comments, if any, on existing installation, including adequacy of earthing and bonding arrangements (see Regulation 132.16):

**EICR NEW SATISFACTORY**

## PART 3: INSPECTION AND TESTING OF THE MODIFIED CIRCUIT AND RELATED PARTS

Confirmation that necessary inspections have been undertaken

Confirmation of the adequacy of earthing

Confirmation of the adequacy of protective bonding

Confirmation of correct polarity

Insulation resistance (R<sub>i</sub>, R<sub>s</sub>)

Earth loop impedance (Z<sub>s</sub>)

Record limitations, if any, on the inspection and testing

Insulation resistance:

(In a polyphase circuit, record the lower or lowest value, as appropriate)

Line/Line  MΩ Line/Earth  MΩ  
Line/Neutral  MΩ Neutral/Earth  MΩ

RCD operating time at I<sub>Δn</sub> (if RCD fitted)

RCD operating time at 5I<sub>Δn</sub> if applicable

Test button operation satisfactory

Instrument Serial No(s)

**307600366**

## PART 4: DECLARATION

Details of permitted exceptions appended: **Yes / N/A** Risk assessment appended: **Yes / N/A** No. of pages

I, the undersigned, declare that the minor electrical installation works, as detailed in Part 1 of this certificate, does not impair the safety of the existing installation, that the said works have been designed, constructed, inspected, tested and verified in accordance with BS 7671, amended on the date shown, and that, to the best of my knowledge and belief, at the time of completion, the works comply with BS 7671 except as detailed in Part 1 of this certificate.

The results of the inspection and testing reviewed by the Qualified Supervisor

Name: **J MYLCHREES**

Name: **J MYLCHREES**

Signature: **[Signature]**

Signature: **[Signature]**

Position: **ELECTRICIAN**

Position: **ELECTRICIAN**

Date: **1.12.17**

Date: **1.12.17**

Serial Number: **608248**

Serial number: **000**

Please see the 'Notes for Recipients' on the reverse of this page