

# 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 of the First-tier Tribunal: Housing (Scotland) Act 2006  
Section 26 (1)**

**Chamber Ref: PRHP/RP/16/0106**

**Title number: GLA148748**

**Property at Flat 2/1a, 1 Copland Place, Glasgow, G51 2RS  
("The Property")**

**The Parties:-**

**Mr. Jonathon Gillies  
("the former Tenant")**

**Mr Gordon Henry Alexander Cooley and Ms Denise Elizabeth Cooley, 60  
Parkmanor Avenue, Glasgow, G53 7ZD  
("the Landlords")**

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

**Patricia Anne Pryce - Chairing Member**

**Kingsley Bruce - Ordinary Member**

## **Background**

1. On 13 June 2016, the Private Rented Housing Committee ("PRHC", which was succeeded by the First-tier Tribunal on 1 December 2016) issued a determination which stated that the Landlords 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 PRHC issued a Repairing Standard Enforcement Order ("RSEO") in respect of the property.
2. The RSEO made by the PRHC (now the tribunal which is the statutory successor of the PRHC) required the Landlords to:-

- (a) To repair the roof and any structure located thereon to ensure that the property is wind and watertight and to provide proof to the Committee that these repairs having been carried out.
- (b) To redecorate and reinstate the ceiling of the living room.
- (c) To provide to the Committee a report from a competent window installer or specialist addressing whether or not all of the seals around all of the windows are adequate and perform satisfactorily ensuring that the property is wind and watertight and, if not, to undertake such repair or replacement as may be identified by such report and to provide proof of any works required to the Committee.
- (d) To provide to the Committee a report from a suitably qualified plumber addressing the lack of function of the shower, to provide an Electrical Installation Condition Report, in particular addressing the electrical supply and connection to the shower and to undertake such works to the shower, plumbing and electrics as necessary to ensure that the shower functions properly and safely.
- (e) To install a carbon monoxide detector in the kitchen area and to provide to the Committee proof that this has been so installed.

3. The Tribunal ordered that the works specified in the RSEO were to be carried out and completed within 28 days of the date of service of the Notice, that is, by 3 August 2016.
4. On 26 August 2016, the surveyor member of the then PRHC which issued the RSEO attended at the property for the purpose of ascertaining whether the said repairs required by the RSEO had been completed. He found that none of the works specified in the RSEO had been carried out.
5. A copy of the re-inspection report of the surveyor member was sent to the Landlords and to the Tenant. The Tenant replied stating that he wished to attend another hearing. The Tenant replied that he considered that a Rent Relief Order ("RRO") of 90% would be appropriate to take account of the Landlord's failure to comply with the RSEO. The Tenant advised that his tenancy was due to expire on 23 October 2016. The Landlords did not reply. A further inspection and hearing were set down for 30 November 2016. The parties were advised in writing of the new date.
6. On 30 November 2016, the PRHC attended at the property for the purposes of inspection but could not gain entry to the property. The PRHC attempted to ring the door entry system several times but there was no response. The Landlords did not attend the inspection. The Tenant was no longer the Tenant of the property as his tenancy had expired on 23 October 2016. The Landlords did not attend the hearing on 30 November 2016. The PRHC decided to allow the Landlords a further and final opportunity to provide access to the property to see if the works required by the RSEO had been completed. On 5 December 2017, the tribunal sent a letter to the Landlords advising that the tribunal could not gain access to the property for the purposes of inspection on 30 November 2016 but that the tribunal was prepared to allow the Landlords one final chance to provide the tribunal with access to the property to see if the works required by the RSEO had been completed, failing which the tribunal would make its decision based on the report prepared by the then

surveyor member after his re-inspection on 26 August 2016. The letter reminded the Landlords that failure to comply with an RSEO was a criminal offence as was re-letting the property when an RSEO remained over the property. A further inspection and hearing was set down for 23 January 2017. The Landlords were advised in writing of the new date.

7. The tribunal attended at the property on 23 January 2017 for the purposes of inspection. A man appeared at the communal security entrance of the tenement building within which the property is located. He advised that he was the Tenant of the property and that he had been living in the property for one month. He further confirmed that he knew nothing about the inspection and that Mr. Cooley had not mentioned the inspection to him and that he was not prepared to allow the tribunal access to the property for the purposes of inspection. The Landlords did not attend at the property for the inspection.

### **Hearing**

8. A hearing was set down for 11.30 am on 23 January 2017 within Wellington House, Wellington Street, Glasgow. The Landlords did not attend the hearing despite having been advised of the date and time of the hearing.

### **Decision**

9. The Tribunal notes that Landlords have failed to engage with the tribunal process and, despite attending the re-inspection of 26 August 2017, all the issues remain outstanding in terms of the RSEO.
10. The Tribunal takes the view that the Landlords have had ample time to carry out the works. In accordance with the relevant provisions of Section 26 of the 2006 Act, the Tribunal required to determine whether an RRO should be made. As the tenancy, had come to an end, an RRO could not be made. However, the tribunal notes that the Landlords have failed to comply with the RSEO.
11. The tribunal, having made such enquiries as is fit for the purposes of determining whether the Landlords have complied with the Repairing Standard Enforcement Order in relation to the property, determined that the Landlords have 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.
12. The decision of the Tribunal is unanimous.

### **Rights of Appeal**

13. **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.**

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.

14. Where the appeal is abandoned or finally determined by confirming the decision, the decision and the Order made in consequence of it are to be treated as having effect from the day on which the appeal is abandoned or so determined.

Signed

Patricia Anne Pryce, Chairperson

**P Pryce**

Date 23 January 2017