



**FIRST-TIER TRIBUNAL  
PROPERTY CHAMBER  
(RESIDENTIAL PROPERTY)**

**Case reference** : **CAM/12UD/HNA/2023/0015**

**Property** : **20 West Parade, Wisbech,  
Cambridgeshire, PE13 1QB**

**Appellants** : **Jayanathibhal Patel and  
Shakuntalalben Patel**

**Representative** : **Bhavin Jayswal**

**Respondents** : **Fenland District Council**

**Representative** : **In Person**

**Type of application** : **Appeal against financial penalty**

**Tribunal** : **Judge Shepherd  
Chris Gowman BSc MCIEH MCMI**

**Date of Decision** : **26<sup>th</sup> June 2024**

## Decision

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1. In this case the Appellants, Mr and Mrs Patel (“the Appellants”) challenge a decision by Fenland District Council to impose a financial penalty of £7000 on them for a breach of a duty under the Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020.

2. In their written appeal the Appellants stated the following:

*My in laws are retired we requested monthly payment but council refused it we believe this is unfair to charge a huge penalty as we spent £1800 of electrical works to comply for the ICR regulations copy an invoice applied to council as a proof of work done.*

*As soon as we were aware our agent arranges National Grid to sort the issue and then we arrange to do EICR before tenants complain to council so the work was carried out before then proving that we fulfil our responsibility as a landlord and for the safety of our tenants we always dealt with any issue raised by tenants in a timely manner to keep up the property maintenance free and up to date with current legislation. We can provide invoices for work done previously if needed.*

3. In a further submission in an e-mail dated the 26th of February 2024 the Appellant's nephew stated *There was a mistake by an electrician producing a wrong report we relied on the electrician and letting agent's knowledge. Later we rectified the error and sorted out the electrical issues promptly in a timely manner without causing any harm to tenants which cost us a couple of £1000 already.*
4. In the event the Appellants chose not to attend their appeal hearing or provide any representation. The Respondents were represented by Michelle Page a Private Sector Housing Enforcement officer, Dan Horn the Assistant Director and Joanne Evans the Housing Compliance Manager.

5. Michelle Page took the tribunal through the sequence of events. In summary:
- On 4th March 2023 the respondents received an online complaint from the tenant of premises at 20 West Parade, Wisbeach, PE13 3NQ (“The premises”. The tenant Sarah Took expressed concerns about the safety of the electrical installation. She had not received a copy of the EICR (Electrical Installation Condition Report) when the tenancy commenced and recent inspections had left her concerned over the safety of the electrics.
  - On the 7th March 2023 in a telephone conversation Ms Took said that during a gas safety inspection a plumber had identified electrical defects and advised the agent.
  - On the 25th of January 2023 LC Electricals had visited and were unable to carry out any works due to the meter being tampered with and there was reverse polarity.
  - On the evening of the 7th March 2023 Ms Page visited the premises and noted exposed wires under the kitchen sink and an issue with the flooring in the bathroom as well as other minor detail defects.
  - On the 8th March 2023 the agent emailed a copy of the 2021 electrical report for the premises. The report was an EIC report and not an EICR report. The report shows that supply polarity is reversed together with no RCD protection. In short, the electrics were in a very unsafe state.
  - On the 14<sup>th</sup> March 2023 Ms Page sent an Emergency Remedial Action Notice to the landlords requesting the work to be completed by the 20th of March 2023.
  - On the 16th March 2023 Ms Page received confirmation from the agents that works were scheduled for the 21<sup>st</sup> - 22nd of March

- On the 29<sup>th</sup> March 2023 Ms Page received relevant documents including the management contract between the agent and the landlord and a copy of the tenancy agreement.
  - On the 30<sup>th</sup> March 2023 Ms Page received a copy of an EICR report dated 28th March 2023.
  - On 5th April 2023 the internal approval matrix for the Notice of Intent to Serve a Financial Penalty notice was signed by Carol Pilson the corporate director of Fenland District Council.
  - On 5th April 2023 Ms Page sent a Notice of Intention to Serve a Financial Penalty notice to the landlords.
6. The Appellants made representations to the Respondents along the lines of those already indicated. These representations were considered by Dan Horn. He says in his statement that on the 12th April 2023 he received two emails from the Appellant's the son-in-law to say they were in Australia on holiday. He reviewed the Appellant's submissions in line with the council policy and provided the Review Notice Determination on the 15<sup>th</sup> May 2023. He reduced the proposed penalty from £17000 to £7000. He told us that the reason for this reduction was the fact that the Appellants were misled by an electrician as to the status of his report in 2021.

### **Determination**

7. We are satisfied that Fenland District Council's policy on financial penalties is sound and that it was applied properly in this case. We also consider that the reduction in penalty made by Mr Horn was appropriate in the circumstances. We have some sympathy for the Appellants who were clearly misled by a *rogue* electrician to believe that the report was a full EICR report when it was not. Nonetheless his report did state expressly that there was reverse polarity which ought to have raised alarm bells but did not. As a result, the tenants in the property necessarily lived in a very unsafe environment. Whilst this may have been caused by other tenants seeking to use the

electricity supply for the purposes of growing cannabis it was the landlord's responsibility to ensure that the property was safe.

8. In all the circumstances we consider that the penalty imposed was fair and reasonable. We also do not consider that it was unreasonable of the Respondents to require the full payment. They had seen bank accounts which suggested that the Appellants had funds available. They were also satisfied that the Appellants had a small portfolio of properties numbering 3 which could have provided further capital if necessary.
  
9. In all the circumstances we confirm that the appeal is dismissed.

Judge Shepherd

26<sup>th</sup> June 2024

## RIGHTS OF APPEAL

1. If a party wishes to appeal this decision to the Upper Tribunal (Lands Chamber) then a written application for permission must be made to the First-Tier Tribunal at the Regional office which has been dealing with the case.
2. The application for permission to appeal must arrive at the Regional office within 28 days after the Tribunal sends written reasons for the decision to the person making the application.
3. If the application is not made within the 28 day time limit, such application must include a request for an extension of time and the reason for not complying with the 28 day time limit; the Tribunal will then look at such reason(s) and decide whether to allow the application for permission to appeal to proceed despite not being within the time limit.
4. The application for permission to appeal must identify the decision of the Tribunal to which it relates (i.e. give the date, the property and the case number), state the grounds of appeal and state the result the party making the application is seeking.