



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 27 and Section 60 of the
Housing (Scotland) Act 2006 ("the 2006 Act")**

Chamber Ref: FTS/HPC/RP/17/0195

**Re: Property at 100 Argyll Road, Kinross, KY13 8BL under Title Number
KNR115 ("the house")**

Parties:

**Miss Mhairi Stewart, residing at 100 Argyll Road, Kinross, KY13 8BL ("the
former Tenant")**

**Mrs Aileen McDonald, residing at Nether Common East, Rait, Perthshire, PH2
7RU ("the Landlord")**

Tribunal Members:

Ruth O'Hare (Legal Member) and David Godfrey (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal"), with reference to the Repairing Standard Enforcement Order ("RSEO") dated 29 July 2017 and, having considered the application by the Landlord for a Certificate of Completion of Works and the outcome of the Tribunal's subsequent further enquiries in this regard, the Tribunal determined that a Certificate of Completion of Works should be issued in terms of Section 60(4) of the 2006 Act. The Tribunal further determined to revoke the rent relief order in terms of section 27(4) of the 2006 Act.

Background

- 1 Reference is made to the decision of the Tribunal dated 29 July 2017 which concluded 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 house met the Repairing Standard. On the same date the Tribunal issued a RSEO in respect of the property. The works required by the RSEO were:-

- (i) Repair or replace the electric panel heaters in the front and back bedroom and the wall heater in the bathroom;
- (ii) Repair or replace the switch for the immersion heater in the kitchen;
- (iii) Install smoke and heat detectors in accordance with the British Standard on the design of fire detection installations for dwellings (BS5389 Part 6) in conjunction with the Scottish Government's Technical Handbook 2013 Domestic under section 2 – Fire, sub-section 2.11 Communication;
- (iv) Following completion of the works at (a), (b) and (c), produce an electrical installation condition report by a suitably qualified electrician confirming that the electrical installations within the house are in safe condition and in proper working order;
- (v) Replace the floor coverings in the entrance vestibule; and
- (vi) Remove and treat the black mould in the vestibule and front bedroom and redecorate the affected areas.

The RSEO required the landlord to complete the works within two months of the date of service of the order.

- 2 The Tribunal carried out a reinspection of the house on 30 October 2017. None of the works required by the RSEO had been completed. The Tribunal therefore determined that the Landlord had failed to comply with the RSEO under section 26(1) of the 2006 Act and made a rent relief order under section 27(2).
- 3 On 27 July 2022 the Tribunal received correspondence from Aberdeen Considine solicitors, advising that the property had been repossessed and the lender's intention was to place it on the market. On 7 July 2023 the Tribunal received correspondence from Gavin Bell, the new owner. Mr Bell indicated that the property had been refurbished and raised questions regarding the RSEO. The Tribunal treated this as a request for a completion certificate and therefore scheduled a reinspection of the property.
- 4 The reinspection took place on 29th September 2023. The former Tenant had removed from the property. The new tenants were present and allowed access. The Landlord was not present nor represented.
- 5 The Tribunal proceeded to re-inspect the property and found the following:-
 - (i) The electric panels in the front and back bedrooms and the wall heater in the bathroom had been replaced;
 - (ii) The switch for the immersion heater in the kitchen had been replaced;
 - (iii) Smoke and heat detectors had been installed;
 - (iv) The floor coverings in the entrance vestibule had been replaced;
 - (v) The black mould in the vestibule and front bedroom had been treated and was no longer present; and
 - (vi) Although a Domestic Electrical Installation Certificate had been provided, no Electrical Installation Condition Report had been produced.

- 6 A re-inspection report was issued to Mr Bell for comment. The Tribunal subsequently received an Electrical Installation Condition Report dated 4 November 2023 from the Landlord by email. The Report confirmed the installations were satisfactory.

Reasons for Decision

- 7 The Tribunal was satisfied based on the findings of the re-inspection, and having considered the Electrical Installation Condition Report, that the RSEO had been complied with. The Tribunal therefore determined to issue a certificate of completion and revoke the rent relief order.
- 8 The decision of the Tribunal was unanimous.

Right of Appeal

In terms of Section 46 of the Tribunal (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 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 is abandoned or determined.

17 November 2023

Date