

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Chamber Ref: FTS/HPC/RP/23/2492

12 Craigielaw Farm Cottages, Lingniddry, East Lothian, EH32 0PY being part of the subjects comprising one and a half acres of ground and more particularly described in the Feu Charter by Trustees of the Deceased Francis Wemyss Charteris Douglas, Earl of Wemyss and March recorded in the Division of the General Register of Sasines applicable to the County of East Lothian on 16 July 1928 (“the Property”)

The Parties:-

Mr Stuart Tait and Mrs Kimberly Tait, residing at the Property (“the Tenant” and “the Applicant”)

The First Grandchild’s Fund, Lord Wemyss Trust, Estate Office, Longniddry, East Lothian, EH39 0PY (“the Landlord” and “the Respondent”)

Tribunal Members:

M McAllister, Solicitor (Legal Member) and G Adams, Chartered Surveyor (Ordinary Member) (“the tribunal”)

NOTICE TO

The First Grandchild’s Fund, Lord Wemyss Trust

Whereas in terms of their decision dated 15 December 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 tribunal now makes a repairing standard enforcement order (RSEO) in the following terms and requires the Landlord to carry out such work as is necessary for the purposes of ensuring that the Property meets the repairing standard in terms of Section 13 of the said Act and that any damage caused by the carrying out of any work in terms of this Order is made good.

The tribunal determined to make a repairing standard enforcement order in the following terms:

The landlord is required to

- 1. To instruct a competent condensation specialist such as a Chartered Building Surveyor or Property Care Association accredited specialist/company to undertake a fuller Condensation Assessment of the Property to provide recommendations to address the underlying cause(s) of condensation and to provide the report to the Tribunal for further consideration.**
- 2. To repair or replace the windows such that all windows serving the Property are capable of being opened and closed fully as designed and without any significant impairment; have no broken panes; are reasonably draughtproof; are free from timber decay; are free from any cracked or defective glazing putties; are free from defective perimeter sealants; free from damaged/missing sections of astrigals and to ensure that all mortice and tenon joints are not open and watertight on completion whilst allowing for any remedial decoration works on completion of such works.**
- 3. To remove or relocate wall units positioned over the gas range cooker to ensure that no wall units are located within a 750mm distance from the top surface of the cooker.**

The tribunal determined that the RSEO requires to be complied with by 31 January 2024

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.

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 typewritten on this and the two preceding pages are executed by M. Joseph McAllister, legal member of the First-tier Tribunal for Scotland at Saltcoats on 15 December 2023 before J. McIvor,