

Housing and Property Chamber

First-tier Tribunal for Scotland



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

**Repairing Standard Enforcement Order (RSEO): Housing (Scotland) Act 2006
Section 24**

Case Reference FTS/HPC/RP/23/2841

Property at 18 West Benhar Road, Harthill, Shotts, ML7 5PB ("the Property"), being the subjects registered in the Land Register of Scotland under Title Number LAN82740.

The Parties: -

Mr Alban Barley-Jones, 18 West Benhar Road, Harthill, Shotts, ML7 5PB ("The Tenant"),

And

Mr Jesmond Sathiya Kumar and Mrs Shyla Sathiya Kumar, both residing at 4, Etna Court, Armadale, EH48 2TD ("The Landlords")

Whereas in terms of their decision dated 12th 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 Act") and in particular that the Landlord has failed to ensure compliance with the following paragraphs of section 13(1) of the Act:

13(1) a. The house is wind and watertight and in all other respects reasonably fit for human habitation.

13(1) b. The structure and exterior of the house (including drains gutters and external pipes) are in a reasonable state of repair and in proper working order.

13(1) c The installations in the house for the supply of water, gas and electricity and sanitation, space heating and heating water are in a reasonable state of repair and in proper working order.

13(1) d. Any fixtures, fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order.

13(1) h. The house does not meet the tolerable standard.

the Tribunal now requires the Landlord to carry out such works as are necessary for the purposes of ensuring that the House concerned meets the repairing standard and that any damage caused by the carrying out of any work in terms of this Order is made good.

In particular the Tribunal requires the landlord to:-

- a. Instruct a suitably qualified specialist to
 - i. prepare a report on the condition of the Property (including the roof and guttering) detailing the cause and full extent of water ingress and damp throughout the Property and
 - ii. prepare a proposed specification of works outlining any necessary works required to ensure that the Property is wind and watertight, and that the structure and exterior of the house (including drains, gutters and external pipes) are in a reasonable state of repair.
- b. Carry out such works as are necessary to draught proof the external doors at the Property so that they are in a reasonable state of repair and in proper working order.
- c. Submit the report and specification required at Paragraph 15a to the Tribunal for further consideration and, thereafter, carry out all works which are then further determined by the Tribunal as are necessary to ensure that the property meets the Repairing Standard.
- d. Repair the garage at the Property so that is in a reasonable state of repair and in proper working order.
- e. Repair the driveway at the Property so that is in a reasonable state of repair and in proper working order.

- f. Repair or replace the extractor fans in the bathroom and kitchen of the Property so that they in a reasonable state of repair and in proper working order.
 - g. Repair the Solar Panel system at the Property so that it is in a reasonable state of repair and in proper working order.
 - h. Instruct a SELECT, NICEIC or NAPIT registered electrician to carry out a full inspection of the electrical wiring, installations and apparatus throughout the Property and to repair or renew any parts which are identified in said report to be of Category C1 or C2 to ensure the installation and apparatus is fully functioning and meets current regulatory standards and provide a new EICR to the Tribunal confirming that the installations, apparatus and wiring meet current regulatory standards,
2. The Tribunal order that the works specified in this Order must be carried out and completed by 31st 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.

In terms of Section 63 of the Act, 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 type written on are executed by Andrew Cowan, legal member of the Tribunal, at Glasgow on 18th December 2023 in the presence of the undernoted witness:-

E M Clark

A Cowan

_____ witness

_____ Legal Member

ELIZABETH MARY CLARK name in full

7 WEST GEORGE STREET Address

GLASGOW

G-2 IBA