

# Housing and Property Chamber

## First-tier Tribunal for Scotland

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**Statement of Decision of the Housing and Property Chamber of the First-tier Tribunal for Scotland under Sections 26 and 27 of the Housing (Scotland) Act 2006**

**Chamber Ref: FTS/HPC/RP/23/1092**

**Re: Property at 38 Sunnybraes, Steelend, Dunfermline, Fife KY12 6NE (“the Property”)**

**Land Register Number: FFE55965**

**Parties:**

**Miss Lisa Goldie, sometime 38 Sunnybraes Terrace, Steelend, Dunfermline, Fife KY12 9NE (“the Tenant”)**

**Mr Calum McLean Watt, 128 Henderland Road, Bearsden, Glasgow G61 1JA (“the Landlord”)**

**Tribunal Members:**

**George Clark (Legal Member) and Geraldine Wooley (Ordinary/surveyor Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the Tribunal'), having made such enquiries as it saw fit for the purposes of determining whether the Landlord has complied with the Repairing Standard Enforcement Order made by the Tribunal on 1 August 2023, determined that the Landlord has not complied with the Order and that the failure to comply should be notified to the local authority. The Tribunal was unable to make a Rent Relief Order.**

**Background**

1. On 1 August 2023, following an inspection and hearing, the Tribunal made a Repairing Standard Enforcement Order (“RSEO”) in respect of the Property. The RSEO required the Landlord to carry out such work as was 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 the Order was made good.

- 1) *The RSEO required the Landlord:*
- 2) *to carry out such roof and chimney repairs as are necessary, including replacing slipped and missing slates, and repointing and reharling the chimney stack, ensuring both roof and chimney stack are safe, wind and water tight.*
- 3) *to replace the gutters with new guttering of adequate capacity to cope with the water discharge from the roof.*
- 4) *to clean off the mould and treat the walls of the stair and in the second bedroom to prevent further mould growth, monitor the affected areas for dampness and once dried out, redecorate.*
- 5) *to remove the mould and treat the walls and ceiling in the bathroom and take such steps as are necessary to ensure the bathroom is suitably ventilated.*
- 6) *to carry out such repairs as are necessary to ensure the entrance door and doorframe to the Property are wind and water tight, or to replace them.*
- 7) *to repair or replace the opening light in the kitchen window so that it is wind and water tight.*
- 8) *to carry out all necessary repairs to ensure the radiators in the hall and main bedroom are not leaking and thereafter to provide the Tribunal with a copy of a Gas Safety Certificate from a registered Gas Safe engineer, dated after the date of the repairs.*
- 9) *to install a carbon monoxide monitor in the kitchen, in compliance with all relevant legislation and regulations and Scottish Government Guidance.*
- 10) *to replace the garden fence.*

2. The Tribunal ordered that the works specified must be carried out within the period of 3 months from the date of service of Notice of the RSEO on the Respondent.
3. The Tribunal Members arrived to reinspect the Property on 6 February 2024 but were unable to gain access. They were aware that the Tenant had vacated the Property. On 17 November 2023, the Landlord had advised the Tribunal that the Property is currently unfurnished and unoccupied and is in the process of being repossessed by his bank.
4. A Schedule of Photographs, taken at the reinspection is attached to and forms part of this Decision.
5. No work has been done to the roof or gutters since the RSEO was made. There were no curtains in the windows and the Property appears to be

unoccupied. There was no evidence, such as a “For Sale” sign, to indicate that a heritable creditor is in possession and is selling the Property.

### **Summary of the issues**

6. The issues to be determined were whether the Landlord had carried out the works required by the RSEO made on 27 July 2022 and, if not, whether a Rent Relief Order in respect of the Property should be made.

### **Reasons for Decision**

7. The Tribunal had no difficulty in deciding that the landlord has not complied with the RSEO. The Tribunal Members had been unable to reinspect the interior of the Property, but it was clear that no work whatsoever has been done to the roof or gutters since the RSEO was made. Accordingly, the Landlord has failed to comply with the RSEO.
8. Section 29 of the Act provides that a Landlord who, without reasonable excuse, fails to comply with a Repairing Standard Enforcement Order commits an offence.
9. The Tribunal was unable to make a Rent Relief Order, as the Tenant has vacated the Property.
10. The decision of the Tribunal was unanimous.

### **Right of Appeal**

**In terms of section 46 of the Tribunals (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 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.**

# G Clark

Signed

Date: 6 February 2024