

Housing and Property Chamber

First-tier Tribunal for Scotland



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

STATEMENT OF DECISION: Housing (Scotland) Act 2006 Section 26

Reference number: FTS/HPC/RT/23/1945

Re: Property at Elim House, 41 Ugie Street, Peterhead, AB42 1NX ("the Property")

Title Number: ABN73500

The Parties:

**Aberdeenshire Council, Infrastructure Services (Housing), Gordon House, Blackhall Road, Inverurie, Aberdeenshire, AB51 3WA
("The applicant")**

Mrs Margaret Tinto and Mr Laurie Tinto, residing together at 70 Alexander Avenue, Kingseat, Newmachar, Aberdeen, AB21 0AS ("the Landlord")

Interested Party:

Angela Thomson, residing at Elim House, 41 Ugie Street, Peterhead, AB42 1NX ("the Tenant")

Tribunal Members:

**Paul Doyle (Legal Member)
Angus Anderson (Surveyor Member)**

Unanimous Decision of the Tribunal

The First-tier tribunal for Scotland (Housing and Property Chamber) ('the tribunal') finds that the landlord has failed to comply with the Repairing Standard Order made on 7 November 2023 and declines to certify that the work required by the Repairing Standard Enforcement Order relative to the Property made on 7 November 2023 has been completed. Accordingly, the said Repairing Standard Enforcement Order remains in place.

Background

(1) On 7 November 2023 the First-tier Tribunal for Scotland (Housing and Property Chamber) (“the tribunal”) issued a decision requiring the Landlord to comply with the repairing standard enforcement order (“RSEO”) made by the tribunal on 7 November 2023.

(2) The Repairing Standard Enforcement Order (“RSEO”) required the Landlord to

(a) Instruct a suitably qualified Gas Safe registered engineer to inspect and carry out all works necessary to leave the gas central heating boiler and gas hob in good working order. Thereafter to provide the First-tier Tribunal for Scotland (HPC) with an up-to-date and satisfactory Gas Safety Record from a suitably qualified and Gas Safe registered heating engineer on the safety of the gas central heating system and all other gas appliances in the property.

All within 42 days.

(3) Following the expiry of the period for completion of the works a re-inspection was scheduled for 12th March 2024. Notification was given to the Tenant by email, and to the Landlord by post on 5th February 2024.

Re-inspection

(4) On 12 March 2024, tribunal members reinspected the property and found that none of the works required by the RSEO had been completed. The Ordinary member prepared a report containing photographs taken during the inspection. The report was issued to the parties on 19th March, 2024.

(5) On 20th March 2024 the Applicant responded to the re-inspection report agreeing with its contents and requesting a Rent Relief Order of 90%. They did not request a hearing. No response was received from the Landlords.

(6) The tribunal finds that the Landlord has ignored the repairing standard enforcement order dated 7 November 2023, leaving the tenant without adequate heating and without a reliable supply of hot water throughout the winter months.

(7) The works required by the RSEO relate to the safety of the gas central heating boiler and are required not just to meet the repairing standard but also to preserve the tenant's health, safety, and welfare.

(8) It was obvious from tribunal members' observations at the inspection that none of the work required by the RSEO has been carried out.

DECISION

(9) The only conclusion that the Tribunal can come to is the works required by the RSEO have not been completed. The tribunal therefore refuse to issue a certificate of completion of works in terms of s. 60 of the Housing (Scotland) Act 2006 because the landlord has failed to comply with the RSEO made on 7 November 2023.

Right of Appeal

(10) 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.

(11) 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.

P Doyle

Signed *Paul Doyle*
Legal Member

17 April 2024