



**Statement of Decision of the Housing and Property Chamber of the First-tier Tribunal for Scotland under Section 26 (1) of the Housing (Scotland) Act 2006**

**Chamber Reference number: FTS/HPC/RP/23/0001**

**Re: Property at Flat 4/1, 49 Meadowside, Dundee DD1 1EQ (“the Property”)**

**Title No: ANG37960**

**The Parties:**

**Ms Amy Dare and Ms Chenoa Beedie, both Flat 4/1, 49 Meadowside, Dundee DD1 1EQ (“the Tenants”)**

**Sean Gordon Lewis, t/a Sean Lewis Property, 21a Camperdown Street, Dundee DD1 3JA Property (“the Landlords”)**

**Tribunal Members: George Clark, Legal Member  
Robert Buchan, Ordinary (Surveyor) Member**

**Decision**

The First-tier Tribunal for Scotland Housing and Property Chamber, having made such enquiries as it saw fit for the purposes of determining whether the Landlords have complied with a Repairing Standard Enforcement Order in respect of the Property made on 18 April 2023, decided that the Landlords have failed to comply with the Order, and that this failure should be reported to Dundee City Council and to Police Scotland. The Tribunal was unable to make a Rent Relief Order.

**Background**

1. By application, dated 30 December 2022, the Tenants applied to the Housing and Property Chamber of the First-tier Tribunal for Scotland (“the Tribunal”) for a determination of whether the Landlords had failed to comply with the duties imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 (“the Act”).
2. Following an Inspection and Hearing on 18 April 2023, the Tribunal made a Repairing Standard Enforcement Order (“RSEO”) in respect of the Property.

The RSEO required the Landlords, within 6 weeks of the date of its service on them to:

1. carry out repairs to or replacement of the roofing felt and roof pertinentes above the kitchen of the Property, to ensure that the roof is water-tight;
  2. replaster the ceiling in the kitchen of the Property;
  3. carry out redecoration of the kitchen ceiling following replastering and of areas affected by the ingress of water; and
  4. exhibit to the Tribunal a certificate provided by a suitably qualified SELECT, NICEIC or NAPIT registered electrical contractor that the ceiling lights in the kitchen and bathroom of the Property are in proper working order and are safe to use.
3. On 16 August 2023, the Legal Member of the Tribunal reinspected the Property. One of the tenants was present and the Landlords were represented by Ms Sarah Adams of Belvoir Lettings, Dundee. The Legal Member of the Tribunal noted that none of the work required by the RSEO had been carried out, but Ms Adams exhibited copies of the Landlords' acceptance of an estimate for the internal works and their authority to proceed. These could not be carried out until the roof repairs are completed, and Ms Adams advised that the Landlords had asked her to obtain a modification to a specification of works for the roof. She anticipated that she would receive the Landlords' authorisation to instruct the works as soon as the contractors had amended the specification and estimate. Ms Adams also advised, and the Tenant confirmed that, pending completion of the works required by the RSEO, the Landlords had provided alternative accommodation to the Tenants within the same building.
4. The Tribunal noted that the works required by the RSEO had not been completed but that it appeared that the Landlords, who own the entire building of which the Property forms part, would shortly give approval to the external works going ahead and had already given approval for the internal works. As the Tenants had been relocated to another flat in the building, the view of the Tribunal was that, rather than make a non-compliance finding, a further reinspection should be arranged in two months' time or as soon as practicable after the two-month period had elapsed. Accordingly, the Tribunal continued the case to a further reinspection and Hearing.
5. The Tribunal inspected the Property again on the morning of 6 November 2023. The Members were admitted to the Property by a representative of Belvoir Lettings, Dundee. The Property was unoccupied, and the Landlords' representative advised that the Tenants had vacated the Property and the alternative accommodation.
6. The Tribunal noted that the kitchen ceiling had been completely replastered, but had not yet been decorated, as the plaster was in the process of drying out. The ceiling light had not been reinstated. There was evidence of water staining on the bathroom ceiling and wall above the bathroom door. A damp meter indicated a high level of moisture at the margins of the staining, indicating that it might be in the process of drying out.

7. Following the Reinspection, a Hearing took place by means of a telephone conference call on the afternoon of 6 November 2023. The Tenants, having vacated the Property, are no longer Parties to the application. The Landlords were represented by Mrs Aimi Lewis of Belvoir Lettings, Dundee.
8. Mrs Lewis told the Tribunal that the work on the roof felt and the roof pertinent had been carried out and the kitchen ceiling replastered. It could not be decorated until the plaster dried out. The light fitting would then be reinstated, and an updated Electrical Installation Condition Report (“EICR”) obtained. She added that the water staining in the bathroom was understood to have occurred following a recent storm.
9. The Tribunal noted that the works required by the RSEO had not been completed but that it appeared that the bulk of the work had been carried out. The Tribunal accepted that the kitchen light fitting would not be reinstated until the ceiling had been decorated when the plaster dried out and that, until the light was reinstated, the Landlords would not be able to obtain an updated EICR. The view of the Tribunal was that, rather than make a non-compliance finding at this stage, a further inspection should be arranged in three months’ time or as soon as practicable after the three-month period had elapsed. That should allow sufficient time for the plaster to dry out, the redecoration to be carried out, the light fitting to be reinstated and the EICR to be obtained. It would also afford the Landlords the opportunity to investigate the more recent water penetration in the bathroom and assess whether it is a problem that post-dates the Order or is the result of the roof repairs not having been carried out effectively. The Tribunal issued a Direction to the Landlords to provide “before and after” photographs of the roof and a copy of the roofing contractor’s specification of works, as the Tribunal Members were unable to inspect the roof themselves.
10. The Tribunal continued the case to a further reinspection and Hearing.
11. On 13 February 2024, the Landlords’ letting agents advised the Tribunal that the kitchen ceiling work had now been completed. The ceiling had been painted and the kitchen light would be installed later that week.
12. The Landlords did not provide the photographs of the roof, as required by the Tribunal’s Direction of 6 November 2023, or the electrical certificate required by the RSEO, and did not provide the EICR referred to in Paragraph 9 above.

### **Reinspection**

13. The Tribunal Members arrived to reinspect the Property on the morning of 13 May 2024. They obtained entry to the tenement stair, but, despite several audible knocks on the door of the Property, they were unable to gain entry. Neither the Landlords nor their letting agents attended the reinspection.

## **Hearing**

14. A further Hearing was held by means of a telephone conference call on the afternoon of 13 May 2024, following the Reinspection. The Landlords were not present or represented, so no evidence was led.

## **Reasons for Decision**

15. The Tribunal is unable, without inspecting the Property, to determine that the works required by the RSEO have been completed satisfactorily and is particularly disappointed that its Members were unable to gain access to the Property on 13 May 2024. It is not able to rely on statements provided by the Landlords' letting agents. In any event, the Landlords have not complied with the Direction made on 6 November 2023 and have not provided the certificate required by the RSEO. The Tribunal has twice postponed making a decision on compliance as it appeared that matters might be resolved in short order and is not prepared to continue the case again. Accordingly, the Tribunal determined that the Landlords have not complied with the RSEO.

16. The Tribunal was unable to make a Rent Relief Order, as the Tenants have vacated the Property.

G Clark

**Legal Member**

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**13 May 2024**  
**Date**