

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 Sections 26 and 28 (“the 2006 Act”)

Chamber Ref: FTS/HPC/RT/23/2023

Title no: ABN31499

**22 St Mary Street, Peterhead AB42 1TB
 (“The House”)**

The Parties:-

Aberdeenshire Council, Infrastructure Services (Housing), Gordon House, Blackhall Road, Inverurie, Aberdeenshire AB51 3WA (“the Third Party Applicant”)

**Mr Kenneth Alexander & Mrs Beverley Alexander, 22 St Mary Street, Peterhead AB42 1TB
 (“the Tenant”)**

**Mrs Margaret Laurie & Mr Laurie Tinto, 70 Alexander Avenue, Kingseat, Newmachar, Aberdeen AB21 0AS
 (“the Landlords”)**

Tribunal Members

Graham Harding (Legal Member)

Angus Anderson (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”), unanimously determined that the Landlords had failed to comply with the Repairing Standard Enforcement Order (“RSEO”) dated 6 November 2023. The Tribunal also determined it should make a Rent Relief Order. The Tribunal further determined that notice of the failure be served on the Local Authority in which the house is situated and to the Police Scotland for possible prosecution under the Act.

Background

1. Reference is made to the determination of the Tribunal dated 6 November 2023 which determined that the Landlord had failed to

comply with the duty imposed by Section 14 (1)(b) of the 2006 Act in that it had failed to ensure that the property met the repairing standard. The Tribunal therefore imposed a RSEO. The works required by the RSEO were:-

- (a) To provide a current Gas Safety Certificate produced by a suitably qualified Gas Safe registered engineer.
- (b) To instruct a Gas Safe registered engineer to inspect the boiler and to carry out such work as is necessary to ensure that the boiler is safe, in a reasonable state of repair and in proper working order.

The Tribunal required the works be completed within a period of six weeks from the date of service of the RSEO.

2. On 30 April 2024 the Tribunal carried out a re-inspection of the property. Only the Tenant was present. The Tribunal established that no inspection or repair of the boiler by a Gas Safe registered engineer had taken place and no Gas Safety Certificate had been produced as had been required in terms of the RSEO.
3. The findings of the re-inspection were issued to the Landlords and the Tenant following the re-inspection.
4. By email dated 15 May 2024 the Third Party Applicant responded to the Reinspection Report and submitted that a Rent Relief Order be granted with a maximum reduction in rent of 90%.
5. The Tribunal received no written response to the Re-inspection report from the Landlords.

Reasons for Decision

6. The Landlords have failed to comply with the terms of the RSEO. They have failed to engage with the Tribunal throughout the whole course of the determination of the application.
7. The Landlords have been given every opportunity to participate in the proceedings and has offered no explanation as to why they have not.
8. The Tribunal therefore determines that the Landlord have failed to comply with the terms of the RSEO.
9. The Tribunal further determined that in the circumstances given that the gas boiler was not in working order and the Landlords had failed to provide a current gas safety certificate that it was appropriate to make a Rent Relief Order restricting the rent by 90% until such time as the Landlord complied with the terms of the RSEO.

10. The decision of the Tribunal was unanimous.

Right of Appeal

- 1. A landlord or tenant aggrieved by the decision of the Tribunal may seek permission to appeal from the First-tier Tribunal on a point of law only within 30 days of the date the decision was sent to them.**
- 2. Where such an appeal is made, the effect of the decision and of the order is suspended until the appeal is abandoned or finally determined, and where the appeal is abandoned or finally determined by confirming the decision, the decision and the order will be treated as having effect from the day on which the appeal is abandoned or so determined.**

Signed: Graham Harding

Date: 10 June 2024

Chairperson