

# Housing and Property Chamber

## First-tier Tribunal for Scotland

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

**Statement of Reasons: Housing (Scotland) Act 2006 Section 24**

**Chamber Reference: FTS/HPC/RP/23/2044**

**Re: Property at 8 Woodside Terrace, Cardenden, Lochgelly KY5 0LZ (“the Property”)**

**The Parties:**

**Kathleen Reilly, 1 Inchdairnie Cottage, Inchdairnie, Fife KY50UL (“the Landlord”)**

**Pawel Kwiatowski, 8 Woodside Terrace, Cardenden, Lochgelly KY5 0LZ (“the Tenant”)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (‘the tribunal’) having made such enquiries as are fit for the purposes of determining whether the landlord has complied with the Repairing Standard Enforcement Order dated 18 February 2024 determined to extend the period for the landlord to comply with outstanding items numbers 1 and 5 until 16 September 2024. The outstanding item 1 is to carry out such repairs as are necessary to ensure the fence between the property and the neighbouring property at 6 Woodside Terrace is in proper working order and in a reasonable state of repair. The outstanding item 5 is to ensure that the wall bordering the property and the neighbouring property at 6 Woodside Terrace is structurally secure and functions as a stable boundary wall between the properties.**

The Tribunal consisted of: -

Mary-Claire Kelly, Chairing and Legal Member

Greig Adams, Ordinary Member (surveyor)

## **Background**

1. By application dated 22 June 2023, the tenant applied to the First-tier Tribunal (Housing and Property Chamber) for a determination of whether the landlord had failed to comply with the duties imposed by section 14(1)(b) of the Housing (Scotland) Act 2006.
2. An inspection and hearing took place on 2 October 2023. The tenant was in attendance at the inspection and hearing. The tenant had requested a Polish interpreter who was in attendance at both the inspection and the hearing. The landlord did not attend the inspection but was in attendance at the hearing with her supporter Isobel Hill.
3. Following the hearing the Tribunal issued a Repairing Standard Enforcement Order (RSEO) in respect of the application. The RSEO required the landlord to carry out the following works within eight weeks of the date of service of the RSEO:
  - i. *Carry out such repairs as are necessary to ensure the fence between the property and the neighbouring property at 6 Woodside Terrace is in proper working order and in a reasonable state of repair.*
  - ii. *Remove the two rusty poles sticking out of the grass in the rear garden.*
  - iii. *Carry out such repairs as are necessary to ensure the gas cooker in the kitchen is in a reasonable state of repair and proper working order and if necessary replace with a new cooker.*
  - iv. *Instruct a suitably qualified tradesperson to properly fit and secure the carpet on the stairs and upper landing in the house.*
  - v. *Instruct a suitably qualified professional to inspect the wall bordering the property and the neighbouring property at 6 Woodside Terrace to check whether the wall is structurally secure or at risk of collapse and to carry out such repairs as are necessary to ensure the wall functions as a stable boundary wall between the properties.*

### **Re-inspection and hearing**

4. A re-inspection and hearing were scheduled for 18 March 2024. The reinspection took place at 10 am. The tenant was present as was a Polish interpreter. The landlord was not in attendance.
5. At the inspection the Tribunal observed that no repairs had been carried out since the RSEO had been issued and the condition of the items specified in the RSEO remained unchanged.
6. At the hearing the landlord's solicitor, Robert Macdonald was in attendance. The tenant and the Polish translator were also present.
7. Mr. Macdonald made a preliminary motion to adjourn the hearing. Mr. Macdonald explained that the landlord accepted that no repairs had been carried out under explanation that she had not received notification of the RSEO and statement of reasons. Mr. Macdonald sought an adjournment to allow her to receive those documents and also to allow her to instruct repair works as necessary.
8. Mr. Kwiatowski objected to the adjournment. Mr. Kwiatowski stated that he intended to leave Scotland and may have moved out of the property prior to any adjourned hearing.
9. The Tribunal determined to allow an adjournment of the hearing. No re-inspection would be required prior to the adjourned hearing.

### **Hearing – 2 August 2024 -Fife Voluntary Centre**

10. Prior to the hearing the tenant had emailed the Tribunal on 25 June 2014 to advise that he had left the property.
11. The landlord attended the hearing with a supporter. The landlord confirmed that the tenant had vacated the property and returned the keys on 22 June 2024.
12. The landlord stated that the tenant had left the property in a poor state of cleanliness. She stated that she had since been carrying out repairs and decoration to the property. The landlord was focused on carrying out repair works to the property and had not decided whether the property would be re-

let or sold in the future. In relation to the items specified in the RSEO the landlord's evidence was as follows:

13. Fence between the properties - no works had been carried out to repair the fence. The landlord stated that she had discussed the fence with the tenant of the neighbouring property. She had told the landlord that she didn't want a new fence. The landlord had thought the fence was in a reasonable state of repair. During the hearing the landlord confirmed that she would now seek to carry out repairs to the fence in order to comply with the RSEO and would provide evidence that the fence had been repaired.
14. Two Rusty Poles: The landlord and her supporter Mr. Farmer, who had been assisting with the work to the property confirmed that the poles had been removed.
15. Gas cooker: The landlord stated that the gas cooker had not been supplied by her but had been brought by the tenant. She advised that after the tenant moved out the cooker, which was in a poor state of cleanliness had been removed from the property.
16. Carpet on the stairs and upper landing: The landlord advised that following the tenant moving out the carpets had been in a poor condition with evidence of damage caused by the tenant's animals. She had removed the carpets in full from the stairs and landing and elsewhere in the property and these would be replaced in due course.
17. Boundary wall – the landlord advised that no work had been carried out in relation to this item on the RSEO. The landlord advised that she would seek to instruct a repair to be carried out to the wall. It was noted in the discussion that the wall may be common between the two neighbouring properties. The Tribunal noted that if the landlord obtained a report outlining the works required it was for her to establish whether there was shared liability with the neighbouring property. It was noted that the landlord should provide any evidence on discussions with the neighbouring property's owners which she thought relevant.

18. It was noted during the hearing that the tenant had raised a separate repairing standard application at an earlier date in terms of which various repairs required to be carried out. The landlord was unclear as to the terms of the previous RSEO and the Tribunal stressed to her the importance of checking the terms of the previous RSEO and carrying out any works that were outstanding. The landlord's evidence was that the property was now being generally upgraded and redecorated and the Tribunal observed that some items on the previous RSEO may have been completed during that process.

### **Reasons for decision**

19. Based on the oral evidence of the landlord at the hearing the Tribunal were satisfied that items, 2, 3 and 4 of the RSEO had been resolved.
20. In relation to item 2 the Tribunal accepted that the rusty poles had been removed from the garden and accordingly no longer presented a hazard.
21. in relation to items 3 and 4 the Tribunal had been notified that the tenant had moved out of the property and accepted the landlord's evidence that she had removed all carpets and the cooker in the process of upgrading the property. As the items had been removed there was no longer a breach of the repairing standard.
22. The Tribunal accepted that the landlord intended to carry out the works specified at items 1 and 5 of the RSEO and that she would now attend to the issues.
23. The Tribunal considered six weeks a reasonable period for the applicant to carry out the works and provide evidence in relation to their completion.

### **Decision**

The tribunal determined to extend the period for the landlord to comply with outstanding item numbers 1 and 5 until 16 September 2024.

Mary-Claire Kelly

Date: 2 August 2024