

Housing and Property Chamber First-tier Tribunal for Scotland



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

Repairing Standard Enforcement Order

Housing (Scotland) Act 2006: Section 24 (2)

Chamber Ref: FTS/HPC/RT/24/1081

15 Mackie Avenue, Tarves, Ellon AB41 7LA being the subjects registered in the Land Register of Scotland under Title Number ABN68905 (“the Property”)

The Parties:-

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

Garry Milne, Crimondhill Workshop, Manse Road, Methlick, Ellon, Aberdeenshire AB41 7EH (“the Landlord” and “the Respondent”)

Laura Murray, 15 Mackie Avenue, Tarves, Ellon AB41 7LA (“the Tenant”)

Tribunal Members:

Martin McAllister, Solicitor (Legal Member) and David Godfrey, Chartered Surveyor (Ordinary Member) (“the tribunal”)

NOTICE TO

Garry Milne

Whereas in terms of its decisions dated 26 August 2024, the First-tier Tribunal for Scotland (Housing and Property Chamber) (the Tribunal) determined that the Landlord has failed to comply with the duty imposed by Section 14 (1) (b) of the Housing (Scotland) Act 2006, the Tribunal now makes a repairing standard enforcement order (RSEO) in the following terms and requires the Landlord to carry out such work as is necessary for the purposes of ensuring that the Property meets the repairing standard in terms of Section 13 of the said Act and that any damage caused by the carrying out of any work in terms of this Order is made good.

The Tribunal determined to make a repairing standard enforcement order (“RSEO”) in the following terms:

The Landlord is required to

- 1.1 repair or replace the sitting room window so that it is capable of being opened and closed fully as designed and without any significant impairment;
- 1.2 carry out works to the roof to ensure that there are no loose or broken tiles;
- 1.3 ensure that the oil fired central heating system is working efficiently and safely in compliance with current regulations including proper installation of the oil tank and a system free from fuel leaks. The Respondent is to provide certification from a technician qualified to install and inspect oil fired boilers and oil storage tanks and registered with the Oil Firing Technical Association (OFTEC) that the heating system meets these requirements;
- 1.4 ensure that a properly installed carbon monoxide detector is installed in the sitting room;

1.5 provide an up to date electrical inspection condition report (EICR) on the house by a competent electrician on the working order and condition of the installation in the house for the supply of electricity and the report should also address the state of repair and working order of the electrical fittings and appliances provided by the Respondent in the house (PAT test certificate). The report should contain no items of Category C1 or C2 faults. The provisions relating to competent electricians are contained in the Scottish Government Statutory Guidance on Electrical Installations and Appliances in Private Rented Property. This information is available on the Chamber website at https://www.housingandpropertychamber.scot/sites/default/files/hpc/SCOTTISH%20GOVERNMENT%20GUIDANCE%20ON%20ELECTRICAL%20INSTALLATIONS%20AND%20APPLIANCES%20IN%20PRIVATE%20RENTED%20PROPERTY%20-%20REVISED%20NOV%202016_0.pdf

The tribunal determined that the RSEO requires to be complied with by 11 October 2024.

A landlord, tenant or third party applicant 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.

Please note that in terms of section 28(1) of the Act, a landlord who, without reasonable excuse, fails to comply with a RSEO commits an offence liable on summary conviction to a fine not exceeding level 3 on the standard scale. A landlord (and that includes any landlord's successor in title) also commits an offence if he or she enters into a tenancy or occupancy arrangement in relation

to a house at any time during which a RSEO has effect in relation to the house.
This is in terms of Section 28(5) of the Act.

In witness whereof these presents typewritten on this and the three preceding pages
are executed by M. J. McAllister, legal member of the First-tier Tribunal for
Scotland, at Saltcoats on 26 August 2024 before P. Ashby, 21 Montgomerie
Crescent, Saltcoats.

P Ashby M McAllister