

Housing and Property Chamber

First-tier Tribunal for Scotland



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

**Repairing Standard Enforcement Order (RSEO): Housing (Scotland) Act 2006
Section 24**

Chamber Ref: FTS/HPC/RT/24/1590

Title no/Sasines Description: STG75238

**Re: 42 Comely Place, Falkirk, FK1 1QG ("the
Property")**

The Parties:-

**Mr Martin Rutherford, 42 Comely Place, Falkirk, FK1
1QG ("the Tenant")**

**Falkirk Council Private Sector Team, Suite 2, The Forum,
Callendar Business Park, Falkirk, FK1 5XR ("the Third Party
Applicant")**

**Mr Ryszard Wegrzyn, Mr James MacIntosh, Mr Josef
MacIntosh, Flat 7, Margaret Allen House, 32 Broomy Hill,
Hereford, HR4 0LH ("the Landlord")**

The Tribunal

**Ms Yvonne McKenna (Legal Member and Chair)
Ms Sara Hesp (Ordinary Member and Surveyor)**

Whereas in terms of their decision dated 6 September 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 Act"), and in particular that the Property failed to meet the Repairing Standard as set out in section 13(1) (c) and (7)(d) and (g) of the 2006 Act contrary to the Landlord's obligation in terms of section 14(1) thereof; 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 concerned meets the repairing standard and that any damage caused by the carrying out of any work in terms of this Order is made good.

In particular the tribunal requires the landlord:-

- (a) to ensure that the Carbon Monoxide detector in the gas boiler room is properly sited in accordance with Scottish Government guidance;
- (b) to provide a current, up to date electrical inspection condition report (EICR) on the Property by a suitably competent electrician on the working order and condition of the installation in the Property for the supply of electricity containing no category C1 or C2 items of disrepair,. The provisions relating to competent electricians are contained in the Scottish Government Statutory Guidance on Electrical Installations and Appliances in Private Rented Property.
- (c) to provide a valid and up to date Gas Safety Certificate for the Property from a Gas Safe Registered Engineer addressing the working order, condition and safety of any gas installation and gas appliances in the house;
- (d) to provide evidence of interlinked fire detection devices and a heat alarm in the Property sited in accordance with Scottish Government guidance.

The Tribunal order that the works specified in this Order must be carried out and completed by 6 November 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.

In terms of Section 63 of the Act, 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 type written on this and the preceding page(s) are executed by Yvonne McKenna legal member of the Tribunal, at Kirkcaldy on in the presence of the undernoted witness:-

S Kay

Y McKenna

Witness _____ Legal Member

STEVEN KAY name in full