

# 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 25**

**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 complied with the Repairing Standard Enforcement Order dated 18 February 2024 determined that the landlord has complied with the said Repairing Standard Enforcement Order and that a Certificate of Completion should be issued in accordance with section 60(5) of the Housing (Scotland) Act 2006.to**

The decision was unanimous.

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 – 18 March 2024**

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. The Tribunal determined to adjourn the hearing having heard representations from parties to allow for the landlord to received documents which had not been intimated to her and to allow her to instruct repair works.

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

7. Prior to the hearing on 2 August 2024 the tenant confirmed that he had moved out of the property.
8. Reference is made to the Tribunal's decision dated 2 August 2024. The Tribunal was satisfied that the landlord had carried out satisfactory repairs in relation to items 2, 3 and 4 of the RSEO.
9. The Tribunal determined to vary the RSEO to reflect the works which had been carried out leaving items 1 and 5 outstanding. The period for the landlord to comply with outstanding item numbers 1 and 5 was extended until 16 September 2024.

### **Reasons for the Decision**

10. The remaining items on the RSEO concerned the condition of the fence between the property and the neighbouring property at 6 Woodside Terrace and the boundary wall between the two properties.
11. By email dated 19 August 2024 the landlord stated that work to tighten the existing fence would be carried out by 24 August 2024.
12. By email dated 1 September 2024 the landlord provided an invoice from I.C.Scott Bricklaying and Blocklaying dated 28 August 2024 for the amount of £650.40. The invoice detailed that the existing boundary wall had been removed and replaced with a new wall.
13. By email dated 5 September 2024 the landlord provided photographs of the fence and the boundary wall.
14. The Tribunal examined the photographs and were satisfied that works had been carried out to the existing fence so that it was in a reasonable state of repair and proper working order. The Tribunal was satisfied that the existing

boundary wall had been removed and replaced with a new wall which was structurally secure.

### **Decision**

The tribunal determined that the landlord had complied with the RSEO and proceeded to issue a Certificate of completion.

### **Right of Appeal**

**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.

Mary-Claire Kelly

Chairperson:

Date: 23 September 2024