

# Housing and Property Chamber First-tier Tribunal for Scotland

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

### **STATEMENT OF DECISION: in terms of Section 25(1) and Section 27(4) of the Housing (Scotland) Act 2006 (“the Act”) in respect of an application under Section 22(1A) of the Act**

**Chamber Reference number: FTC/HPC/RT/22/0840**

#### **Parties:**

1. Dumfries and Galloway Council per its employee Mr. Robert Rome, HMO Licensing and Landlord Registration Officer, Strategic Housing, Municipal Chambers, Buccleuch Street, Dumfries, DG1 2AD as third-party applicant in terms of Section 22(1A) of the Act (“the Third -party Applicant”);
2. Mr. James Donnelly residing at 4, Knowe Cottages, Kirkconnel, Sanquhar, DG4 6NN (“the Tenant”) and
3. 73. Inkersall Investments Limited, Challenge House, 46, Nottingham Road, Mansfield, Nottinghamshire, NG18 1BL (“the Landlord”), together referred to as “the Parties”.

#### **Property:**

4, Knowe Cottages, Kirkconnel, Sanquhar, DG4 6NN being part of the subjects registered under title sheet number DMF22527 (“the Property”)

#### **Tribunal Members**

Karen Moore (Chairperson) and Carol Jones (Ordinary Member)

#### **Decision of the Tribunal**

The Tribunal, having determined that the work required by the Repairing Standard Enforcement Order dated 21 June 2022 and varied on 13 December 2022 (“the RSEO”) is no longer necessary revokes the said RSEO in terms of

Section 25(1) of the Act, and, having revoked the RSEO, revokes the Rent Relief Order dated 22 May 2023 in terms of Section 27(4) of the Act.

The RSEO not being complied with fully, the Tribunal did not issue a Certificate of Completion in terms of Section 60 of the Act.

### **Background**

1. By application received on 23 March 2022 (“the Application”), the Third - party Applicant applied to the First-tier Tribunal for Scotland (Housing & Property Chamber) for a determination that the Landlord had failed to comply with the duty imposed on him by Section 14(1)(b) of the Housing (Scotland) Act 2006 (“the Act”) in respect that the Property does not meet the Repairing Standard in respect of Sections 13 (1) (a), 13 (1) (b) and 13(1) (h) of the Act.
2. Following an Inspection of the Property and a Hearing, the Tribunal imposed a Repairing Standard Enforcement Order dated 21 June 2022 and, following a further inspection and Hearing varied this order on 13 December 2022.
3. Another Inspection of the Property and a Hearing took place in May 2023 after which the Tribunal made a finding of failure to comply in terms of Section 26(1) of the Act and, by order dated 22 May 2023, made a Rent Relief Order.

### **Applications in terms of Sections 25(1) and 27(4) of the Act.**

4. By emailed letter dated 18 September 2024 (“the Revocation Application”), the Landlord applied to the Tribunal for a revocation of both the RSEO and the Rent Relief Order. Detailed evidence of compliance with the RSEO accompanied the Revocation Application. The Revocation Application also requested that a completion certificate in terms of Section 60 of the Act be granted.
5. The Revocation Application was issued to the Third-party Applicant who made no comment.

### **Decision of the Tribunal and Reasons for the Decision of the Tribunal**

6. The Tribunal had regard to the explanation set out in the Revocation Application and to the evidence which accompanied it. The Tribunal made a finding in fact that the RSEO had been complied with, save for the requirement that the installation of the extractor fan should have been carried out by a SELECT, NAPIT or NICEIC registered contractor. Therefore, Tribunal took the view that, as the RSEO had not been

complied with in full, it was not appropriate to issue a certificate of completion in terms of Section 60 of the Act.

7. The Tribunal being satisfied that an extractor fan had been installed with the tenant confirming it was in working order at the hearing on 22 May 2023 and being satisfied that the remainder of the work required by the RSEO had been carried out satisfactorily, determined to revoke the RSEO in terms of Section 25(1) of the Act. Having done so, the Tribunal revoked the Rent Relief Order in terms of Section 27(4) of the Act.

8. The decision of the Tribunal is unanimous.

### **Appeal**

In terms of section 46 of the Tribunals (Scotland) Act 2014, a party 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.

# K Moore

Signed

K Moore, Chairperson

16 October 2024