



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 25 of the Housing (Scotland)
Act 2006**

Chamber Ref: FTS/HPC/RP/23/3241

Re: Property at 3 Alma Terrace, Laurencekirk, AB30 1FL (“the Property”)

Parties:

**Marjorie Stewart, 4 Garvocklea Gardens, Laurencekirk, AB30 1BG (“the
Landlord”); and**

Mrs Julie May, 3 Alma Terrace, Laurencekirk, AB30 1FL (“the Tenant”)

Tribunal Members:

Ruth O'Hare (Legal Member) and Angus Anderson (Ordinary Member)

Decision

**The First-tier Tribunal for Scotland (Housing and Property Chamber)
unanimously determined to vary the Repairing Standard Enforcement Order
(“RSEO”) by extending the period of completion of the works until 31st May 2025**

Background

1 By application to the Tribunal, the Tenant sought an order against the Landlord on the basis that they had failed to comply with the duties imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 (“the 2006 Act”). The Tribunal carried out an inspection of the property on 1st March 2024 and held a hearing that same day. The Landlord was represented at the hearing by Ms Catriona Truscott and Mrs Deirdre Latimer. The Tenant was present and accompanied by her son. Following the hearing the Tribunal made a repairing standard enforcement order (“RSEO”) under section 24 of the 2006 Act requiring the Landlord to:-

- (i) Instruct a damp and condensation specialist, but not the specialist who attended previously, to investigate the damp and mould within the property and produce said report to the Tribunal for further consideration. The said

damp and condensation specialist should be provided with a copy of the Tribunal's decision for reference;

- (ii) Instruct a drain specialist, but not the specialist who attended previously, to clear the blocked drain and further, to inspect the drains pertaining to the property and produce said report to the Tribunal for further consideration; and
- (iii) Instruct a roofing contractor to inspect the roofs and chimneys and carry out such repairs as are necessary to ensure the property is wind and watertight. The said roofing contractor should be provided with a copy of the Tribunal's decision for reference

The Tribunal ordered that the works specified in the RSEO be carried out and completed within a period of eight weeks. Reference is made to the decision of the Tribunal dated 8th April 2024 in this regard.

- 2 In terms of its decision dated 24th September 2024 the Tribunal determined to vary the RSEO to require further works to be carried out by the Landlord, and to extend the period for completion of said works by six months.
- 3 On 28 October 2024 the Tribunal received an email from Mrs Truscott and Ms Latimer. They advised that an eviction order had been granted by the Tribunal in respect of the property, with execution of said order suspended until 20th January 2025. They confirmed that access had not been given by the Tenant for the damp works to be completed, and that they wished to carry out the repairs to the roof after the completion of the damp works. Furthermore, they would require to dig up the garden in order to complete the drainage works and did not think these works could be carried out until the Tenant had vacated. They had previously been advised by the contractor that the damp works would take approximately four weeks, but expected the damage would now be greater and therefore the works would take longer than a month. On that basis they sought an extension of the period for completion of the works.
- 4 On 25 November 2024 the Tribunal received an email from the Tenant confirming that she accepted the request for an extension, having taken advice on this point. As an aside she advised that rainwater was still coming through the utility room ceiling and provide photographs in support of this.

Reasons for decision

- 5 The Tribunal determined the application having regard to the terms of the application, the written representations and the evidence heard at the hearing, along with the findings from the Tribunal's previous inspection. The Tribunal was satisfied having regard to all of the available evidence that there was sufficient information upon which to reach a fair determination of the application.

- 6 The Tribunal therefore had regard to Section 25 (1) of the Act which states *“the first-tier tribunal which made a repairing standard enforcement order may, at any time (a) vary the order in such manner as they consider reasonable, or (b) where they consider that the work required by the order is no longer necessary, revoke it.”*
- 7 The Tribunal accepted that it made practical sense for the Landlord to wait until the Tenant had vacated the property to carry out the majority of the works required under the RSEO, particularly if they were having difficulties in gaining access. Much of the work required would be extensive and disruptive, and the Tenant had previously outlined the impact of such disruption on her family.
- 8 The Tribunal further noted that the Tenant did not object to an extension of the period of time required for the works to be completed, and that the Landlord would be unable to re-let the property after the Tenant’s departure whilst the RSEO remained in place. To do so would be a criminal offence.
- 9 The Tribunal therefore determined to vary the RSEO to extend the period of time for completion of the works until 31 May 2025. The Tribunal would however expect the Landlord to continue their efforts in proceeding with repairs, where possible, and where access is allowed, particularly given the Tenant’s recent reports of ongoing water ingress.
- 10 The decision of the Tribunal was unanimous.

Right of Appeal

In terms of Section 46 of the Tribunal (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 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 determined.

Ruth O'Hare

Legal Member/Chair

Date 29 November 2024