

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/RP/24/2232

74 Kirkland Crescent, Dalry, Ayrshire KA24 5EW, being the subjects registered in the Land Register of Scotland under Title Number AYR125902 (“the Property”)

The Parties:-

Ms Mieke Brakeboer, 74 Kirkland Crescent, Dalry, Ayrshire KA24 5EW (“the Tenant”)

Miss Andrea Gibson, CHAP, Michael Lynch Centre, 71 Princes Street, Ardrossan, North Ayrshire, KA22 8DG (“the Tenant’s Representative”)

Mr Oliver Leichtag, 25 Princes Park Avenue, London, NW11 0JR (“the Landlord”)

Tribunal Members:

Mr Martin McAllister, Solicitor (Legal Member) and Ms Lori Charles, Chartered Surveyor (Ordinary Member) (“the tribunal”)

NOTICE TO

Mr Oliver Leichtag

Whereas in terms of its decision dated 6 January 2025, 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 makes a repairing standard enforcement order (“RSEO”) in the following terms:

The Landlord is required to:

1. **Repair or replace the back door of the Property to ensure that it is wind and watertight and that missing fascias are replaced.**
2. **Replace the missing slab to the patio at the rear of the Property.**
3. **Repair or replace the defective timber cladding around the porch at the front of the Property.**
4. **Remove the redundant wiring suspended from the kitchen cabins and make safe.**
5. **Repair or replace the bath taps to ensure that they are working effectively and free from leaks.**
6. **Repair or replace the bath taps to ensure that they are working effectively and free from leaks.**
7. **Repair or replace the defective fencing at the rear of the Property.**

The Landlord is required to carry out the work required by the RSEO before 5 March 2025.

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 preceding page are executed by Martin Joseph McAllister, legal member of the First-tier Tribunal for Scotland, at Saltcoats on 6 January 2025 before Peter Ashby, [redacted]

Martin J McAllister

Peter Ashby

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Determination: Housing (Scotland) Act 2006: Sections 26 and 27

Chamber Ref: FTS/HPC/RP/24/2232

74 Kirkland Crescent, Dalry, Ayrshire KA24 5EW, being the subjects registered in the Land Register of Scotland under Title Number AYR125902 (“the Property”)

The Parties:-

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Mr Oliver Leichtag, 25 Princes Park Avenue, London, NW11 0JR (“the Landlord”)

Tribunal Members:

Mr Martin McAllister, Solicitor (Legal Member) and MS Lori Charles, Chartered Surveyor (Ordinary Member) (“the tribunal”)

Decision

The tribunal determined:

(One) that the Landlord has failed to maintain the Property to the repairing standard as set out in Section 13 of the Housing (Scotland) Act 2006 and

(Two) that a repairing standard enforcement order (RSEO) be made in terms of Section 24 of the Housing (Scotland) Act 2006.

Background

1. By application dated 23 April 2024, the Applicant applied to the Housing and Property Chamber of the First-tier Tribunal for Scotland for a determination of

whether the Landlord has failed to comply with the duties imposed by Section 14 (1) (b) of the Housing (Scotland) Act 2006 as amended ("the 2006 Act"). The application is in terms of Section 22 (1A) of the 2006 Act.

2. The Applicant and Respondent are parties to a private residential tenancy agreement dated 29 and 30 December 2023.
3. The tenancy commenced on 1 December 2023.
4. The application states that the Property does not meet the repairing standard set out Section 13 of the 2006 Act: that any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order and that the Property does not have satisfactory provision for, and safe access to, a food storage area and a food preparation space.
5. The application makes specific reference to the following matters:
 - 5.1 The back door being ill fitting.
 - 5.2 Kitchen counter being in poor condition.
 - 5.3 Loose wires from under cupboard lighting which needs removed.
 - 5.4 Rotten wood in porch which needs replacement.
 - 5.5 Patio tiles missing.
 - 5.6 Bathroom in poor condition with leaking taps and hole in bathroom floor.
 - 5.7 Leaking kitchen sink.
 - 5.8 Fence blown down.
6. On 20 June 2024, a Notice of Acceptance was issued by a legal member of the Tribunal acting under delegated powers of the Chamber President.

Property Inspection

7. The members of the tribunal inspected the Property on 18 December 2024. The Applicant was present and was accompanied by her daughter, Ms Sytkse Lub. The Respondent was not present but was represented by Mr Craig Scott of Rentolease, his letting agent.
8. A schedule of photographs, prepared by the Ordinary Member is attached to this Decision and is referred to for its terms.

Findings on Inspection

9. The Property is a two storey mid terraced house of a Non-traditional Construction, originally built by and on behalf of the local authority and now in private ownership. The construction of the outer walls is - Timber framed stud construction, clad with timber weatherboarding and lined internally with

plasterboard. The accommodation comprises, living room, dining room, three bedrooms, kitchen and bathroom.

10. The back door does not wind and watertight and external fascias are missing. Timber fascias and cladding around the door show signs of rot and are ill fitting.
11. At the rear of the Property there is a missing slab in the patio area.
12. At the front of the property there are areas of wood rot to the timber cladding visible around the porch.
13. There is redundant wiring suspended from kitchen cabinets.
14. There is an area on the kitchen worktop to the right of the sink which is stained.
15. There is no evidence of a leak at the kitchen sink.
16. The kitchen tap has recently been replaced and is in effective working order.
17. The bathroom sink taps are leaking water from the handles.
18. The bath taps are leaking water from the handles.
19. Part of the garden fence has blown down.
20. A gate at the rear of the Property cannot easily open.

Hearing

21. A Hearing was held at Russell House, Ayr on 18 December 2024. The Respondent was not present and was not represented. The Applicant was present and was represented by Mrs Andrea Gibson of CHAP.
22. The Ordinary Member set out the findings from the Inspection.
23. The Applicant said that the Respondent had recently carried out works to the Property which included repairs to the roof and the chimney.
24. The Applicant said that, since she had submitted the application, other defects had become apparent. She said that the construction of the kitchen ceiling is such that it cannot be easily cleaned. She said that the oven is not heating properly, that the stair carpet is ill-fitting and has protruding staples which are a health and safety issue and that many of the windows in the Property do not operate properly and others are ill-fitting and draughty. It was explained to the Applicant that, since these matters were not included in the application or the notification to the Landlord, the tribunal cannot consider them. It is to be hoped that the Respondent would now deal with those particular matters so that the

Applicant would not need to consider submitting another application. The Respondent should also note the issue about the garden gate.

Discussion and Determination

25. The tribunal considered that the staining of the kitchen worktop, though aesthetically not pleasing, met the requirements of the repairing standard.
26. The issue of the garden gate had not been included in the application or notified to the Respondent.
27. The tribunal determined that the Property does not meet the repairing standard.
28. The tribunal determined that a repairing standard enforcement order ("RSEO") in the following terms should be made:
 - 28.1 The back door of the Property is to be repaired or replaced to ensure that it is wind and watertight and that missing fascias are replaced.**
 - 28.2 The missing slab to the patio at the rear of the Property is to be replaced.**
 - 28.3 The defective timber cladding around the porch at the front of the Property is to be repaired or replaced.**
 - 28.4 The redundant wiring suspended from the kitchen cabins should be removed and made safe.**
 - 28.5 The bath taps should be repaired or replaced to ensure that they are working effectively and free from leaks.**
 - 28.6 The bathroom sink taps should be repaired or replaced to ensure that they are working effectively and free from leaks.**
 - 28.7 The defective fencing at the rear of the Property is to be repaired or replaced.**

The Landlord is required to carry out the work required by the RSEO before 5 March 2025.

Reasons

29. The tribunal had regard to what it had found at the inspection of the Property.
30. The tribunal had regard to the statutory obligations imposed upon a residential landlord to ensure that properties meet the repairing standard throughout tenancies.

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.

Martin J McAllister

Martin J. McAllister,
Solicitor, legal member of
Tribunal.
6 January 2025