

# Housing and Property Chamber First-tier Tribunal for Scotland



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

**Notice of Failure to Comply with a Repairing Standard Enforcement Order: Housing (Scotland) Act 2006 (“the 2006 Act”)**

**Chamber Ref: FTS/HPC/RT/23/2773**

**Title no: PTH5737**

**Property at 7 Lochinblair Gardens, Blairgowrie, Perthshire PH10 6GA (“The Property”)**

**The Parties:-**

- **Mrs Fiona Downham, 7 Lochinblair Gardens, Blairgowrie, Perthshire PH10 6GA (“the Tenant”)**
- **Mr Brian Haddow, The Cottage, 1 Ruisaurie, Beauly IV47 7AJ (“the Landlord”)**

**The Tribunal comprised:-**

Ms Gabrielle Miller - Legal Member  
Mr Robert Buchan - Ordinary Member (Surveyor)

## **Decision**

1. The Tribunal, having carried out such enquiries as are appropriate, determined that the Landlord has failed to comply with the requirements of the Repairing Standard Enforcement Order (“RSEO”) issued by a decision of the Tribunal dated 22<sup>nd</sup> March 2024. It further determined that notice of that failure should be served on the Local Authority in whose area the Property is situated. The Tribunal further determined to make a Rent Relief Order to the extent of a 50% (FIFTY PERCENT) reduction of the payable rent charge.

## **Background**

2. On 22<sup>nd</sup> March 2024, the Tribunal issued a determination which stated that the Landlord had failed to comply with the duties imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 (“the Act”). On the same

date, the Tribunal issued a RSEO in respect of the property. The RSEO made by the Tribunal required the Landlord

- a) Repair and/or replace the front door including the fittings, so that it is wind and watertight in a reasonable state of repair and in proper working order;
  - b) Repair and/or replace the bathroom floor to ensure that it is structurally sound and in a reasonable state of repair;
  - c) Repair and/or replace the bathroom tiles and bath surrounds to ensure that they are in a reasonable state of repair and in proper working order;
  - d) Repair and/or replace the bathroom window to ensure that it is in a reasonable state of repair and in proper working order;
  - e) Investigate the recent leakage of the soil waste pipe below the floor and to submit to the Tribunal for their further deliberation a report by a suitably qualified contractor on remedial measures to ensure that the house is fit for human habitation;
3. The Tribunal ordered that the works specified in the RSEO were to be carried out and completed within 3 months from the date of service of the RSEO, that is, by 22<sup>nd</sup> June 2024. The RSEO was served on 22<sup>nd</sup> March 2024.
  4. A further inspection of the property was undertaken by the Tribunal on 17<sup>th</sup> November 2024. It was noted at the inspection that no works in the RSEO had been undertaken and there had been no communication from the Landlord.
  5. The Inspection report was circulated to the Landlord and the Tenant. The report was served upon the Landlord by sheriff officers. There was no response from the Landlord.

## **Decision**

6. The Tribunal takes the view that the Landlord has had ample time to carry out the works. The Tribunal noted that in terms of the application itself, the Tenant had written to the Landlord complaining about the repairs on various dates during 2023. The Tribunal did not consider that a variation or extension was appropriate. The Landlord has failed to engage with the Tribunal in relation to this application and has provided no explanation for his failure to comply with the RSEO. As such, the Tribunal has nothing in front of it which would suggest that any

defence may apply and it would appear that the Landlord has simply ignored the RSEO completely.

7. The Tribunal took the view that the works required by the RSEO had been outstanding for more than six months since the date of the Order and that the issues had been notified to the Landlord by the Tenant over 18 months ago. The Tribunal took the view that these works could have been completed in that period of time.
8. The Tribunal, having made such enquiries as is fit for the purposes of determining whether the Landlord has complied with the RSEO in relation to the Property, determined that the Landlord has failed to comply with the RSEO in terms of Section 26(1) of the Housing (Scotland) Act 2006 and that a notice of failure be served on the Local Authority in which the property is situated.
9. In accordance with the relevant provision of Section 26 of the 2006 Act, the Tribunal is required to determine whether a Rent Relief Order should be made. In arriving at its decision, the Tribunal took into account that despite the seriousness of the issues of disrepair which are fundamental to the occupation and enjoyment of the House, the Landlord has failed to engage with the Tribunal and has had plenty of time to carry out the required works. It appears to the Tribunal that the Landlord has simply chosen to ignore the RSEO. Accordingly, the Tribunal has decided to make a Rent Relief Order to the extent of 50% (FIFTY PERCENT) of the rent payable in terms of the lease agreement between the parties.
10. The decision of the Tribunal is unanimous.

**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.

In witness whereof, these presents type written on this and the preceding pages are executed by Gabrielle Miller, Chair and Legal Member of the Tribunal at Glasgow on 2<sup>nd</sup> December 2024 in the presence of the undernoted witness: -

**Gabrielle Miller**

\_\_\_\_\_ Witness

\_\_\_\_\_ Chairperson

Christopher Trucey Name in full

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