

# Housing and Property Chamber

## First-tier Tribunal for Scotland

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

**Determination: Housing (Scotland) Act 2006: Section 27**

**Chamber Ref: FTS/HPC/RP/24/0332**

**12 Southgate, Milngavie, Glasgow, G62 6RB (“the Property”)**

**The Parties:-**

**Ms Julie D’Amour, residing at 12 Southgate, Milngavie, Glasgow, G62 6RB  
 (“the Tenant” and “the Applicant”)**

**Anita Marwaha, 0/2, 40 Derby Street, Glasgow, GB 7TG (“the Landlord” and  
 “the Respondent”)**

**Tribunal Members:**

**Mr Martin McAllister, Solicitor (Legal Member) and Nick Allan, Chartered  
 Surveyor (Ordinary Member) (“the tribunal”)**

**Decision**

**The tribunal determines:**

**(One) that the Landlord has failed to comply with a repairing standard enforcement order (RSEO) dated 12 June 2022 and that a notice of failure be served on the local authority (Section 26 (2) (a) of the Housing (Scotland) Act 2006);**

**(Two) that a rent relief order be made reducing the rent payable under the tenancy by 25% (Section 27 (2) of the Housing (Scotland) Act 2006).**

**Background**

1. By application dated 18 January 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 (1) of the 2006 Act (“the 2006 Act.”)

2. The Applicant and Respondent are parties to a private residential tenancy in respect of the Property. It is dated 5 January 2018.
3. The application states that the Property does not meet the repairing standard set out Section 13 of the 2006 Act: that the house is not wind and watertight and in all other respects reasonably fit for human habitation, that the structure and exterior of the Property (including drains, gutters and external pipes) are not in a reasonable state of repair and in proper working order, that the installations in the house for the supply of water, gas and electricity and for sanitation, space heating and heating water are in a reasonable state of repair and in proper working order, that any fixtures, fittings and appliances provided by the Landlord under the tenancy are not in a reasonable state of repair and in proper working order, that any furnishings provided by the landlord under the tenancy are not capable of being used safely for the purpose for which they are designed and that the Property does not have satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.

### **Inspection and Hearing 16 May 2024**

4. The members of the Tribunal inspected the Property on 16 May 2024 and a hearing was held on the same day.
5. The tribunal determined to make a repairing standard enforcement order which was in the following terms:

The Landlord was required to:

- 5.1 Produce to the Tribunal a satisfactory current Gas Safety Certificate for the Property prepared by a suitably qualified gas engineer registered in the Gas Safe Register.
- 5.2 Engage a suitably qualified central heating engineer to inspect the central heating system, including the boiler, radiators, external expansion pipe and associated plumbing to ensure that it is in a reasonable state of repair, that the system is fully functioning and includes an appropriate method of controlling the temperature in the Property and thereafter to carry out any necessary repairs. The Respondent is required to submit a report to the Tribunal from the central heating engineer confirming that the system is in a reasonable state of repair, is fully functioning and includes an appropriate method of controlling the temperature.
- 5.3 Repair or renew the defective smoke detector in the upper Landing ensuring that it is in satisfactory working order and interconnected with the existing smoke detectors and kitchen heat sensor in accordance with Scottish Government Guidelines.
- 5.4 Repair or renew the oven to ensure that it is in efficient working order.

- 5.5 Make good the defective flooring in the second bedroom.
- 5.6 Ensure that the window and balcony door in the Living room are in good working order.
- 5.7 Repair or renew the flooring in the balcony to ensure that it is smooth, weatherproof and appropriately pitched to ensure that the drainage from the balcony is effective.
- 5.8 Remove the tree and vegetation growing on the balcony.
- 5.9 Replace the window frames and sills that have been crudely repaired with rough-sawn timber with modern units.
- 5.10 Clear the gutters of vegetation. All guttering should be correctly aligned, and joints checked to ensure that rainwater goods are in proper working order.
- 5.11 Repair the defective/failed roughcasting on the supporting pier of the balcony.
- 5.12 Replace missing roof tiles.
6. The tribunal determined that the Respondent required to comply with the RSEO by 15 August 2024.

### **Reinspection 10 December 2024**

7. The Tribunal members inspected the Property on 10 December 2024. The Tenant was present. The Landlord was not present. The tenant was present and was represented by Mr Raymond Heath of Citizens' Advice Bureau. A re-inspection report and schedule of photographs prepared by the ordinary member is attached to this decision and is referred to for its terms.
8. Some works required by the RSEO had been completed.

#### *Works not complied with*

9. No report was available from a central heating engineer.
10. The oven is not in efficient working order.
11. The defective/ failed roughcasting on the supporting pier of the balcony has not been repaired.

12. There are missing roof tiles.
13. The guttering is not correctly aligned and there is no evidence that the joints have been checked. The gutters contain vegetation.
14. The flooring in the balcony has been renewed but it has not been adequately finished/dressed at the balcony door and doorstep, and at the balcony wall/edge. These areas also form part of the balcony construction and its function to remove rainwater effectively from the property, including the flat below. In its current state the balcony is not fully weatherproof and this will be a contributing factor to the continuing roughcast failure at this location.

### **Hearing 9 December 2024**

15. A hearing was conducted by teleconference at 2 pm on 10 December 2024. Ms 'Amour and Mr Heath were in attendance.
16. The tribunal considered what had been found at the re-inspection.

### **Determination**

17. The tribunal had regard to Section 26 (2) of the 2006 Act:

*Where the First-tier Tribunal decides that a landlord has failed to comply with the repairing standard enforcement order, the First-tier Tribunal must-*  
*(a) serve notice of the failure on the local authority, and*  
*(b) decide whether to make a rent relief order.*

18. Six matters from the RSEO were outstanding and the tribunal determined to find that it had not been complied with and to serve notice of the non-compliance on the local authority in terms of Section 26 (2) (a) of the 2006 Act.
19. In terms of Section 26 (2) (b) of the 2006 Act, the tribunal was then required to consider making a rent relief order.
20. The Landlord has had an opportunity to comply with the RSEO and has not done so and has not sought more time to comply or engaged with the Tribunal process.
21. The tribunal determined that a rent relief order should be made and that the rent should be reduced by 25%.

**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.**

A handwritten signature in black ink, appearing to read 'Martin J. McAllister', written over a faint horizontal line.

Martin J. McAllister,  
Solicitor, legal member of  
Tribunal.  
20 December 2024