

# **Housing and Property Chamber**

## **First-tier Tribunal for Scotland**

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

**Statement of Reasons: Housing (Scotland) Act 2006 Section 24**

**Chamber Ref: FTS/HPC/RT/23/3454**

**Property: 105 Mary Street, Laurieston, Falkirk FK2 9PR ('The House')**

**Title reference: STG5877**

**The Parties: -**

**Arfan Ahmed, L&T Dental Group, c/o Property 4 U, 434 Cathcart Road, Glasgow G42 7BZ ('the landlord')**

**Mutiu Abdussalam, formerly of 105 Mary Street, Laurieston, Falkirk FK2 9PR ("the tenant")**

**Falkirk Council, Private Sector Team, The Forum, Suite 2, Callendar Business Park, Falkirk FK1 1XR ("the third party")**

### **Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the tribunal') having made such enquiries as are fit for the purposes of determining whether the landlord has complied with the Repairing Standard Enforcement Order dated 30 January 2024 determined to extend the period for the landlord to comply with the RSEO until 3 September 2025.**

**The Tribunal consisted of: -**

**Mary-Claire Kelly, Chairing and Legal Member**

**Sara Hesp, Ordinary Member (surveyor)**

## Background

1. By application dated 29 August 2023, the third party applied to the First-tier Tribunal (Housing and Property Chamber) for a determination of whether the landlord had failed to comply with the duties imposed by section 14(1)(b) of the Housing (Scotland) Act 2006.
1. An inspection and hearing took place on 22 January 2024. The landlord's agent Zubair Inwar who was authorised to represent the landlord and Craig Beatt, private sector officer from the third party were in attendance at the inspection and hearing.
2. Following the hearing the Tribunal issued a Repairing Standard Enforcement Order (RSEO) in respect of the application. The RSEO required the landlord to carry out the following works within 3 months of the date of service of the RSEO:  
*Carry out repairs as are necessary to the property to ensure that the front bedroom in the property is not affected by penetrating dampness and is watertight*
3. A re-inspection and hearing took place on 26 August 2024. Reference is made to the Tribunal's decision dated 26 August 2024 to vary the RSEO by extending the period for compliance until 26 November 2024.
4. Prior to the re-inspection on 26 August 2024 there had been a serious fire in the property adjacent to 105 Mary Street. The entire roof had been destroyed as had the interior of the property. The stone build exterior walls appeared to be intact however the interior was entirely exposed to the elements.
5. The property which had been burnt shared a common wall with 105 Mary Street, Falkirk. There did not appear to be any visible damage to the exterior of the property at 105 Mary Street, however it was clear that there had been a significant fire event and that investigations would be required to confirm whether there had been any structural damage prior to the property being re-let.
6. The property was unoccupied and had not been occupied since the previous inspection. There was evidence of smoke damage throughout. There was also evidence of water ingress into the property as a result of efforts by the fire service to deal with the blaze in the adjoining property.
7. At the hearing on 26 August 2024 Mr Inwar, the landlord's agent advised that the landlord has submitted an insurance claim to cover the cost of damage

arising from the fire next door. Mr. Inwar explained that a loss adjuster had been appointed. Mr. Inwar advised that the landlord was awaiting confirmation that a structural report would be prepared to assess whether the property was safe to occupy. The Tribunal determined to allow more time for the insurance claim to progress and to allow the insurance company to investigate the issue and for appropriate repairs to be carried out.

### **Reinspection and hearing 3 December 2024**

8. The Tribunal reinspected the property on 3 December 2024. No further repairs or works had been carried out since the previous inspection. Photographs were taken by the Tribunal during the inspection. Copies of the photographs are attached as a schedule to this statement of decision.
9. The area surrounding the window in the front bedroom continued to be impacted by dampness and water ingress.
10. Shortly before the inspection the Tribunal received a copy of a structural investigation report from PWD consultants. A letter was submitted in advance of the hearing from TM Claims consultants, chartered loss adjusters.
11. At the hearing Mr Ahmed stated that it was his intention to fully comply with the terms of the RSEO. He stated that the fire had caused delays while the insurance company processed the claim. The Tribunal had regard to the structural report. This stated that the property was structurally sound and set out a number of works that would be required to repair the damage done by the fire in the neighbouring property. The works specified in the report included:
  - Checking floor joists adjoining the neighbouring property for rot due to water penetration and repairs as necessary
  - Sealing and roughcasting the party wall between the properties to make it watertight.
  - Restraining the gable wall back to the rafters and ceiling ties as it is now unrestrained for its' height due to the removal of the fire damaged roof.
12. Mr Ahmed stated that he had been frustrated at the slow progress being made by the insurance company. The next step would be to obtain quotations for the various repair works. Mr Ahmed advised that he did not have any information

regarding what was to happen with the adjoining property that had been severely damaged. Mr Inwar advised that they would seek to find out whether the local authority had any further information. Mr Beatt was not aware of any plans for the adjoining property.

13. Mr Ahmed sought an extension of between 9 and 18 months to complete the works to the property. The length of time reflected the amount of work and also the delays in progressing works that were due to the fact that the works were to be carried out as part of an insurance claim and with the assistance of loss adjusters.
14. Mr Beatt accepted that the landlord was genuine in his intentions and also that the fire had caused considerable delay. He proposed a reinspection after 4 to 6 months to check on progress.
15. The Tribunal observed that one area of water ingress within the wardrobe in the front bedroom was adjacent to the gable wall however water penetration was also evident surrounding the window further away from the gable wall. Any works would require to address this issue as well as moisture arising from the issue with the gable wall.

### **Reasons for decision**

16. Based on the written documents lodged by the parties, the reinspection and the evidence at the hearing the Tribunal was satisfied that the RSEO had not been complied with. However, it was clear that there had been a major fire in the adjoining property which had caused a delay in the works being carried out.
17. The Tribunal accepted Mr. Ahmed's evidence that the matter was in the hands of the insurance company and that any delays in repairs being carried out was due to the pace of that process. The Tribunal noted that some progress had been made as a structural assessment had now been carried out and remedial works identified. The Tribunal accepted that the landlord's intention was that work to comply with the RSEO would be carried out as part of those repairs work.
18. The Tribunal noted that the third party had no objection to an extension to the period of time for the RSEO to be complied with.

19. The Tribunal considered it reasonable to extend the compliance period for 9 months. The Tribunal notes that this is a significant period of time however given the level of damage caused by the fire and the pace of progress via the insurance claim the Tribunal considers this to be a reasonable timescale for progress to be made with the repairs.

### **Decision**

The tribunal determined to extend the period for the landlord to comply with the RSEO to 3 September 2025.

M C Kelly

Chairperson:

Date: 3 December 2024

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

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**105 Mary Street, Laurieston, Falkirk FK2 9PR**

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**Schedule of photographs taken on 3 December 2024**



*Photograph 1: Front elevation*

*Photograph 2: Front right-hand corner of roof*



*Photograph 3: Bedroom 1: to upper inside of wardrobes*



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*Photograph 4: Bedroom 1: damp meter reading to upper inside of wardrobes  
(high levels of moisture present)*



*Photograph 5: Bedroom 1: window*





*Photograph 6: Bedroom 1: damp meter reading adjacent window head  
(high levels of moisture present)*

