

Housing and Property Chamber

First-tier Tribunal for Scotland



STATEMENT OF DECISION OF THE FIRST-TIER TRIBUNAL (HOUSING AND PROPERTY CHAMBER) UNDER SECTION 26 OF THE HOUSING (SCOTLAND) ACT 2006

Chamber Ref: FTS/HPC/RP/22/0442

**Danielle Paul, formerly of 23 Sunnybraes Terrace, Steelend, Fife KY12 9NE
("the Tenant")**

**Mordecai (otherwise Mordechai) Bamberger, 15 Belmont Drive, Glasgow G46
7NZ and Mordela Bamberger, 86 Hillside Road, London N15 6NB ("the
Landlord")**

**Re: Property at 23 Sunnybraes Terrace, Steelend, Fife KY12 9NE
("the Property")**

Tribunal Members:

John McHugh (Chairman) and Geraldine Wooley (Ordinary (Surveyor) Member).

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") makes the following Direction:

DECISION

The Tribunal decided that the Landlord has failed to comply with the Repairing Standard Enforcement Order of 23 June 2022 ("the RSEO").

Tribunal Members

John McHugh, Chairperson
Geraldine Wooley, Ordinary (Surveyor) Member

Reasons for the Decision

The requirements of the RSEO are as follows:

“The Tribunal now requires the Landlord to carry out such work as is necessary for the purposes of ensuring that the House meets the repairing standard and that any damage caused by the carrying out of any work in terms of this Order is made good.

In particular, the Tribunal requires the Landlord to:

1 Replace the cracked lintel above the living room window with a lintel which is able to bear the load of the building as appropriate.

2 Replace or repair all windows in the House such that they are capable of being open and closed as intended; have working, unbroken handles; and are draught proof.

3 Commission a report from an appropriately qualified person such as a Chartered Surveyor or a structural engineer as to the causes of penetrating dampness, paying particular attention to the integrity of any damp proof course present and the condition of the concrete slab sub-floor. The report should include recommendations as to ways of eliminating the damp problem and ensuring the property is structurally sound.

4 In accordance with the report’s recommendations, take measures to render the House free from penetrating dampness and provide evidence of same in the form of detailed estimates, invoices and guarantees from appropriately registered companies.

5 Replace the bedroom carpets.

6 Remove all mould and redecorate all affected areas.

7 Repair or replace any damaged rainwater goods.

The Tribunal orders that the works specified in this Order must be carried out and completed within 60 days from the date of service of this Notice.”

The Tribunal had originally been due to carry out a re-inspection on 26 October 2022. This was postponed at the request of the Landlord who had emailed on 23 October 2022 to indicate that he awaited a timber report and that the works had not been completed. A new re-inspection date of 9 December 2022 was fixed and intimated to the Landlord on 11 November 2022.

The Tribunal carried out a re-inspection on 9 December 2022. The surveyor member’s report was issued to the Landlord for comment.

It was found that the works required by paragraphs 2-7 had not been completed.

The Landlord had emailed the Tribunal in response to the report of the re-inspection to advise that he had previously advised that the re-inspection should not proceed because the works had not been completed and that it was difficult to secure the services of builders. The Tribunal had no record of any such correspondence from the Landlord post-dating 11 November 2022. This may have been intended to be a reference to the landlord's email of 23 October 2022.

On the basis of the re-inspection findings, and in particular the failure to comply with paragraphs 3 and 4, the Tribunal determined that there had been a failure to comply with the RSEO and a Decision to that effect was issued on 19 December 2022.

The Landlord has by an email to the Tribunal dated 18 October 2024 advised that all of the works required by the RSEO had been completed. The email read: *"The works were completed a long time ago. We did actually notify when the window lintel was done. I was not aware that it is necessary to notify you about the other items"*.

On 31 October 2024, the Tribunal issued the following Direction: *"The Landlord should within 30 days provide to the Tribunal all documents, including invoices and reports, which it holds which demonstrate compliance with the Repairing Standard Enforcement Order dated 23 June 2022"*.

The Landlord produced nothing in response to the Direction. The Tribunal resolved to fix an inspection of the property and a telephone hearing on 13 February 2025.

The Landlord emailed the Tribunal on 10 February 2025 in response to a request to provide access as follows: *"The tenancy Has been given notice to evict as I wish to sell this house. Also the tenant is very behind on rent. It has been difficult gainig access [sic]."*

The Tribunal carried out an inspection on 13 February 2025. No one was home at the time and so no internal access could be gained.

A report of that inspection has been produced.

There was no evidence on inspection that the works required by the RSEO have been carried out (other than the works relating to paragraph one of the RSEO). No report has been produced as required by the RSEO.

The property appears to remain in poor condition.

Observations

Water was found to be leaking from the adjacent property into the street consistent with there being a leaking pipe beneath the ground. The neighbouring occupier reported that a pipe had burst flooding the garden of No. 23, that works had recently been carried out to No.23 to address the issue but that their effect had been to divert the water into her garden. The issue requires to be addressed.

The Landlord:

- acknowledges the re-letting of the Property despite the existence of the RSEO.
- has misrepresented to the Tribunal that the works required by the RSEO have been completed.
- has failed to respond to the Tribunal's Direction to produce evidence in support of the claim that the works have been completed.

These factors render the Landlord liable to prosecution.

Having regard to the Landlord's serious failings, it would be surprising if the local authority were to consider the Landlord as a suitable person to be registered as a Landlord.

Decision

The Tribunal, considering the terms of section 26 of the Act, decided that the Landlord has failed to comply with the Repairing Standard Enforcement Order.

The decision of the Tribunal was unanimous.

Right of Appeal

A landlord, tenant or third party applicant aggrieved by the decision of the tribunal may seek permission to appeal from the First-tier Tribunal on a point of law only within 30 days of the date the decision was sent to them.

John McHugh
Chairperson

Date: 24 February 2025