

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

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

**Statement of Decision: Housing (Scotland) Act 2006 Section 25(1)**

**Chamber Ref: FTS/HPC/RP/23/3535**

**95 Chapelhill Mount, Ardrossan, KA22 7LZ (“the Property”)**

**Parties:**

**Angus MacKenzie, formerly residing at 95 Chapelhill Mount, Ardrossan, KA22 7LZ (“the former Tenant”)**

**Its Property Limited, 64 High Street, Princes Risborough, HP27 0AX (“the Landlord”)**

**Tribunal Members:**

**Josephine Bonnar (Legal Member) and Donald Wooley (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) having made such enquiries as it saw fit for the purposes of determining whether the Repairing Standard Enforcement Order (“RSEO”) relative to the property dated 21 July 2024 should be varied in terms of Section 25(1) of the Act, determined that the RSEO should be varied by extending the time for completion of the work until 14 April 2025.**

**Background**

- 1. The former Tenant applied to the Tribunal in terms of Section 22 of the Housing (Scotland) Act 2006. He stated that the Landlord has failed to meet the repairing standard in relation to the property. On 7 November 2023, the Tenant notified the Tribunal that the tenancy had ended. On 9 November 2023, a Legal Member of the Tribunal with delegated powers of the President determined that the application should proceed to a determination in terms of Schedule 2 Paragraph 7(2) of the 2006 Act and referred the application to a Tribunal.**
- 2. On 19 December 2023, the Landlord was notified that the Tribunal would inspect the property on 12 February 2024 at 10am and that a hearing would take place at Ardeer Community Centre, Ardrossan at 11.45 am. The Tribunal**

attended at the property on 12 February 2024 at 10am. Access was not provided, and the Landlord did not attend the hearing.

3. The Landlord was notified that the Tribunal had not been able to carry out the inspection. The Landlord responded, apologised for the failure to provide access and stated that he wished to provide information to the Tribunal. The Landlord was notified that an inspection would take place on 10 July 2024 at 10am and a hearing would take place at Ardeer Community Centre at 11.45am. The director of the Landlord notified the Tribunal that a contractor would provide access to the property but requested that he be allowed to participate in the hearing remotely as he lives in England and was unwell. The hearing was converted to a teleconference hearing.
4. The Tribunal attended the property on 10 July 2024 at 10am. Access was provided by a contractor, Larry Ward. The hearing took place at 11.45am. The Landlord's director, Mr Cox, participated.
5. Following the inspection and hearing the Tribunal determined that the property did not meet the repairing standard. A written decision and repairing standard enforcement order ("RSEO") were issued. In terms of the RSEO the Landlord is required:- (i) To carry out all necessary repairs to the porch flat roof, flashing and all rainwater goods at the property to ensure that they free from vegetation, in a reasonable state of repair and proper working order; (ii) To carry out all necessary repairs to ensure that the property is free from water ingress, damp and mould; (iii) To repair or replace the rotten roof timber and plasterboard ceiling in the porch and provide the Tribunal with evidence that this has been done, such as a report or receipted invoice from the contractor who carries out the work; and (iv) Remove the mould from the rear bedroom window and treat the window frame with a fungicidal solution, all within ten weeks of the RSEO being issued.
6. The Landlord was notified that the Tribunal would re-inspect the property on 27 January 2025 at 10.30 am and that a hearing by telephone conference call would take place on the same date at 2pm. The Tribunal attended at 10.30am. Access was again provided by Mr Ward. The hearing took place at 2pm and Mr Cox participated

### **The Re-inspection**

7. The property is still unoccupied and unfurnished. The condition of the external flashing and rainwater goods and the porch ceiling remain unchanged from the original inspection. Although vegetation in the gutter has died back due to the time of year, it appears likely that the gutters are still choked. High levels of damp were noted in and around the entry porch, hall and living room front wall and were also noted in the front bedroom wall. There is still evidence of condensation and mould staining at the rear bedroom window. In the front bedroom there are areas of plaster which are cracked, bossed and missing in places. A copy of the re-inspection report including comparative photographs taken on the 27 January 2025 is attached.

## **The Hearing**

8. The Ordinary Member of the Tribunal provided Mr Cox with information about the condition of the property noted during the re-inspection. He indicated that it appears that no work has been carried out since the previous inspection and issue of the RSEO. The Tribunal had also noted that there is now evidence of water ingress in the front bedroom. The wall below the window showed high moisture readings and the plaster was damp and bossed. The Ordinary Member also mentioned that the condition of the garden has deteriorated, and the remaining section of fence appears to have been substantially damaged, perhaps during the recent storm. This was only an observation as the garden and fence were not included in the application.
9. Mr Cox told the Tribunal that he has only recently got the funds together to carry out the work. He is also planning to come to Scotland soon to arrange contractors. He stated that he wants to get the work carried out so that the property can be re-let. He said that he hopes to be able to get the work completed within the next few weeks.

## **Findings in Fact**

10. The entry porch, hall and living room at the property are affected by damp.
11. A section of ceiling plaster has collapsed in the porch exposing roof timbers which are rotten.
12. The gutter at the porch is at the wrong angle.
13. The gutter at the rear of the property is choked with vegetation.
14. The window frames in the rear bedroom are affected by mould.
15. The front bedroom at the property is affected by damp.

## **Reasons for Decision**

16. The Tribunal noted that none of the work specified in the RSEO has been carried out and the property is essentially in the same condition as it was prior to the issue of the RSEO. However, the Landlord has indicated that he now has the funds to carry out the work. Meantime the property is still unoccupied. The Tribunal is satisfied that the Landlord intends to carry out the work now that he has the funds to do so. The Tribunal is satisfied that the RSEO should be varied to allow additional time for completion of the work

## **Decision**

17. The Tribunal determined that the RSEO should be varied, and the time allowed for completion of the work should be extended to 14 April 2025.

18. The decision of the Tribunal is unanimous.

## **Right of Appeal**

**A Landlord, Tenant or Third-party applicant 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.**

**In terms of Section 63 of the Act, 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.**

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**Josephine Bonnar, Legal Member**

**12 February 2025**