



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 25(1) of the Housing
(Scotland) Act 2006**

Chamber Ref: FTS/HPC/RP/21/0596

Re: Property at 207 Hilton Drive, Aberdeen, AB24 4ND (“the Property”)

Parties:

**Mr Manu Mathew Mattamana, c/o Capital Letters Property Management,
Springfield Property, Laurelhill Business Park, Stirling, FK8 2LJ (“the
Landlord”)**

Tribunal Members:

Ruth O'Hare (Legal Member) and David Godfrey (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the tribunal”) unanimously determined to vary the repairing standard enforcement order (RSEO) made on 22 October 2021 under section 25(1) of the Housing (Scotland) Act 2006 (“the 2006 Act”)

Background

- 1 By decision dated 22 October 2021, the tribunal determined that the Landlord had failed to comply with the duties imposed by section 14(1)(b) of the 2006 Act and made a RSEO in respect of the property requiring the Landlord to:-
 - (i) Install externally vented extractor fans in the kitchen and bathroom of the property. The bathroom fan should be linked to the light switch with appropriate time delay incorporated such that the fan will continue to run for a reasonable period after the light has been switched off.
 - (ii) Investigate suitable options to improve the thermal efficiency of the external walls and undertake such works as are necessary to ensure that the property meets the repairing standard and that any damage caused by the carrying out of any work in terms of the order is made good.

- 2 The RSEO required the Landlord to complete the works within twelve weeks from the date of service of the RSEO. Reference is made to the decision of the Tribunal dated 22 October 2021 in this regard.
- 3 A re-inspection of the property took place on 25 February 2022. The tribunal found that externally vented extractor fans had been installed in the kitchen and bathroom of the property in compliance with part (i) of the RSEO. However, no evidence was provided to confirm that any suitable investigations into suitable options to improve the thermal efficiency of the external walls had been carried out. Despite a dehumidifier being installed in the property, condensation, dampness and mould was found to still be present in all the habitable rooms of the property as well as the kitchen and bathroom.
- 4 The tribunal issued a report detailing the findings of the re-inspection to the parties for comment. The Landlord's representative responded and requested a hearing. They explained that the Landlord intended on installing insulated plasterboard to the external walls of the property but could not do this whilst the property was occupied. The option of cavity wall insulation had also been explored and other owners in the block had been contacted about this, but as yet had failed to respond. They explained that the re-inspection report made no mention of the Tenants' living habits, nor their lack of attempts to clean the mould growth.
- 5 A direction was issued to the Landlord on 31st March 2022 requiring him to submit all documentation on which he intended to rely at the hearing by 2 May 2022. The tribunal did not receive a response from the Landlord and there was no attendance on his behalf at the hearing, which took place by teleconference on 12 May 2022.
- 6 By decision dated 12 May 2022 the tribunal determined that the Landlord had failed to comply with the RSEO in terms of section 26(1) of the 2006 Act, having concluded that the Landlord had been given sufficient time to carry out the works. The tribunal considered that it was unlikely that the work required by part (ii) of the RSEO had been carried out by the Landlord, noting his failure to comply with the direction. Having determined that the Landlord had failed to comply with the RSEO, the tribunal made a rent relief order reducing the rent payable under the tenancy by 40% until the RSEO was complied with.
- 7 On 31 May 2024 the tribunal wrote to the Landlord's representative, reminding them of the Landlord's obligations in terms of the RSEO. Following a query from the Landlord's representative as to the nature of the disrepair, the tribunal sent them copies of the tribunal's previous decisions in the matter. On 9 October 2024 the Landlord's representative provided evidence that the works required by the RSEO had been completed in the form of photographs, an invoice pertaining to the installation of the bathroom and kitchen fans, and an inventory report dated 8 June 2023.
- 8 On 5 December 2024 the tribunal received an email from the Landlord's representative apologising for the breakdown in communication regarding the

application which was due to administrative issues. The Landlord's representative confirmed that the works had been completed and the property was compliant with the repairing standard. He confirmed that he would be inspecting the property on 11 December 2024 and would forward on a report of the inspection to the tribunal. On 31 December 2024 the Landlord's representative emailed the tribunal with the inspection report

- 9 On 13 January 2025 the tribunal wrote to the Landlord's representative requesting further information as to what work had been carried out to investigate suitable options to improve the thermal efficiency of the external walls. On 20 January 2025 the Landlord's representative responded in the following terms:-

"We had 200mm thick rolls of insulation added across the joists in the loft space above 207. This was done in an effort to increase the thickness of insulation to have at least 270mm thickness of insulation in the loft as was suggested by one of the insulation companies.

We investigated internal wall insulation as an option but this requires the property to be void and the insulation would make the rooms smaller due of the thickness of the new insulation which is added onto the face of the existing internal wall.

External wall insulation was considered but we were advised this is more suited to properties with solid walls where other methods, such as cavity wall insulation won't work as the external wall insulation option involves adding a layer of insulation to the outside wall, then covered with a hard protective rendered coat but due to the reduction in natural draughts making the property more airtight, upgrading the newly installed mechanical ventilation would be required in our property and those of neighbouring property.

Cavity wall Insulation was considered the most cost effective option, least intrusive and least impact on the properties both visually and in terms of the space available internally as material (mineral wool, foam, or expanded polystyrene beads) would be injected through small holes that are drilled in the outer wall, and the holes then filled up again. However concerns regarding internal dampness with cavity wall insulation was raised by one of the other owners who did enter into discussion with ourselves regarding the improvements. Another never responded and on refused to carry out the work due to cost implications as attached."

The re-inspection

- 10 The tribunal proceeded to schedule a re-inspection, having received notification from the Landlord's representative that the RSEO had been complied with. The re-inspection took place on 26 February 2025. The Landlord was represented by Mr Steven Strachan, an employee of the Landlords' representative. The original tenants, Miss Anastasia Leligdowicz and Mr Pierre-Louis Cardin were not present, having moved out of the property. Mr Strachan confirmed that there were new tenants who had agreed to him providing access to the tribunal for the re-inspection.

- 11 The tribunal found that an externally vented extractor fan had been installed in the bathroom of the property. The fan was linked to a light switch and continued to run for a reasonable period after the light was switched off. The tribunal also found an extractor hood installed over the cooker in the kitchen.
- 12 No satisfactory evidence was provided from the Landlord to confirm that any investigations into suitable options to improve the thermal efficiency of the external walls had been carried out. The tribunal did however observe that insulation had been installed in the loft space, and there were marks on the external walls to suggest that cavity wall insulation had in fact been applied to the properties in the block.
- 13 Condensation was found to be still present in all the habitable rooms of the property as well as the kitchen and bathroom. There was no evidence to suggest that the extractor hood over the cooker is vented externally.
- 14 The tribunal issued the re-inspection report to the Landlord's representative on 10 March 2025. The tribunal provided a hearing request form, advising that if the Landlord wished a hearing he should return the form within seven days. The tribunal advised the Landlord's representative that if no written request for a hearing was received, it would be assumed that the Landlord was content for a decision to be made based on the information before the tribunal. The tribunal also requested any further written representations no later than 24 March 2025.
- 15 No response was received from the Landlord's representative.

Reasons for Decision

- 16 The tribunal was satisfied that it had sufficient information upon which to reach a decision on the application and that it could do so under Rule 18 of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure 2017 in the absence of a hearing.
- 17 It was evident from the tribunal's findings from the re-inspection that the property continues to suffer from high levels of condensation, despite efforts having been made by the Landlord to improve the thermal insulation of the property. The tribunal was unable to identify the root cause of the condensation from its re-inspection of the property and considered it would be appropriate to vary the RSEO to instruct the Landlord to obtain a report from a damp and condensation specialist to identify any further measures that may be appropriate to address the excess moisture. The tribunal will also require evidence from the Landlord that the kitchen extractor fan has been suitably ventilated externally, as this was not apparent from the re-inspection.
- 18 The tribunal was conscious that it had previously determined that the Landlord had failed to comply with the RSEO in this case. However, the tribunal had regard to the provisions of section 25(1) of the Act, which states that the tribunal "*may at any time.....vary the order in such manner as it considers*

reasonable". The tribunal considered it would be reasonable in light of the recent findings from the re-inspection to vary the RSEO in order to ensure the appropriate action can be taken by the Landlord to comply with the duties under section 14(1) of the Act in order to address the ventilation and condensation issues highlighted in the original application.

19 The decision of the Tribunal was unanimous.

Right of Appeal

In terms of Section 46 of the Tribunal (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 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 determined.

R.O'Hare

7 April 2025

Legal Member/Chair

Date

Housing and Property Chamber
First-tier Tribunal for Scotland

