

# Housing and Property Chamber

## First-tier Tribunal for Scotland



### **Statement of Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under section 60(5) of the Housing (Scotland) Act 2006**

**Chamber Ref: FTS/HPC/RP/23/1148**

**Flat 1-1, 129 John Street, Dunoon, Argyll, PA23 7BL being the subjects registered in the Land Register of Scotland under Title Number ARG657 ("the Property")**

**The Parties:-**

**Stephen Wilson residing at Flat 1-1, 129 John Street, Dunoon, Argyll, PA23 7BL ("The Tenant")**

**Alister MacAlister residing at 134 John Street, Dunoon, PA23 7BN ("The Landlord")**

**Tribunal Members:**

**Jacqui Taylor (Chairperson) and Nick Allan (Ordinary Member)**

#### **1. The Repairing Standard Enforcement Order.**

The Tribunal issued a Repairing Standard Enforcement Order ('RSEO') in respect of the Property dated 7<sup>th</sup> August 2023 which required the Landlord to:-

ONE.Exhibit a valid and compliant EICR Certificate.

TWO. Install:

TWO (i) One functioning smoke alarm in the room which is frequently used by the occupants for general daytime living purposes.

TWO (ii) One functioning smoke alarm in every circulation space, such as hallways and landings.

TWO (iii) One heat alarm in every kitchen and

TWO (iv) All alarms should be interlinked and the installation should comply with the regulations.

THREE.Repair or replace the windows in the living room to render them in proper working order.

FOUR.Repair or replace the velux window to render them in proper working order.

FIVE. Repair or replace the electric panel heaters to render them in proper working order.

SIX. Repair the electric shower to render it in proper working order.

SEVEN. Repair the cracked ceilings in the main bedroom and living room to render them in a reasonable state of repair.

EIGHT. Repair the cracked bathroom tiles to render them in a reasonable state of repair.

NINE. Repair the bathroom ceiling to render it in a reasonable state of repair.

TEN. Repair the defective seal to the wet wall in the bathroom to render it in a reasonable state of repair.

ELEVEN. Repair the sink in the bathroom to render it in proper working order.

## **2. Re Inspection.**

The Tribunal attended at the Property on 15<sup>th</sup> May 2024. The Tenant had previously vacated the Property and was no longer a party to the application. The Landlord attended the inspection.

The Tribunal inspected all items detailed in the RSEO and found as follows:

### **ONE. Exhibit a valid and compliant EICR Certificate.**

The EICR certificate had not been produced to the Tribunal.

### **TWO Install:**

(i) One functioning smoke alarm in the room which is frequently used by the occupants for general daytime living purposes.

(ii) One functioning smoke alarm in every circulation space, such as hallways and landings.

(iii) One heat alarm in every kitchen and

(iv) All alarms should be interlinked and the installation should comply with the regulations.

The required alarms had not been installed. However, during the inspection the Landlord fitted smoke alarms but he was unable to interlink them.

### **THREE: Repair or replace the windows in the living room to render them in proper working order.**

New UPVC double glazed windows had been installed in the living room and they were in proper working order.

### **FOUR: Repair or replace the velux window to render them in proper working order.**

The Landlord advised that the external lead on the roof where the velux window intersects with the roof had been repaired and there had been no further water

ingress. There was no evidence of water ingress from the velux window at the inspection.

*FIVE: Repair or replace the electric panel heaters to render them in proper working order.*

New electric panel heaters had been installed throughout the Property.

*SIX: Repair the electric shower to render it in proper working order.*

The electric shower was in proper working order.

*SEVEN: Repair the cracked ceilings in the main bedroom and living room to render them in a reasonable state of repair.*

The cracks to the bedroom and living room ceilings had been satisfactorily repaired.

*EIGHT: Repair the cracked bathroom tiles to render them in a reasonable state of repair.*

The cracked bathroom tiles had been replaced with a wet wall.

*NINE: Repair the bathroom ceiling to render it in a reasonable state of repair.*

The bathroom ceiling had been satisfactorily repaired.

*TEN: Repair the defective seal to the wet wall in the bathroom to render it in a reasonable state of repair.*

The seal to the wet wall had been satisfactorily repaired.

*ELEVEN: Repair the sink in the bathroom to render it in proper working order.*

The sink in the bathroom had been satisfactorily repaired.

### **3. Hearing Dated 15<sup>th</sup> May 2024.**

This case called for a conference call Hearing at 15.00 on 15<sup>th</sup> May 2024. The Landlord attended the hearing.

The Landlord confirmed that following the inspection he had installed five new smoke alarms throughout the property and they were now interlinked. He had sent the Tribunal a video and photographs confirming this.

The Landlord also confirmed that he had paid an electrician to carry out the required electrical work to the Property. He was certain that a valid EICR certificate had been issued but he could not locate a copy. He would send it to the Tribunal within the next few days.

### **4. Decision following the hearing dated 15<sup>th</sup> May 2024.**

#### **4.1 Completed items:**

The Tribunal issued a Decision dated 23<sup>rd</sup> May 2023 which stated that they were satisfied that the following items of the RSEO had been satisfactorily completed for the reasons stated:

*THREE: Repair or replace the windows in the living room to render them in proper working order.*

FOUR: Repair or replace the velux window to render them in proper working order.

FIVE: Repair or replace the electric panel heaters to render them in proper working order.

SIX: Repair the electric shower to render it in proper working order.

SEVEN: Repair the cracked ceilings in the main bedroom and living room to render them in a reasonable state of repair.

EIGHT: Repair the cracked bathroom tiles to render them in a reasonable state of repair.

NINE: Repair the bathroom ceiling to render it in a reasonable state of repair.

TEN: Repair the defective seal to the wet wall in the bathroom to render it in a reasonable state of repair.

ELEVEN: Repair the sink in the bathroom to render it in proper working order.

#### **4.2 Variation of the RSEO.**

The Tribunal's decision dated 23<sup>rd</sup> May 2024 also varied the RSEO as follows:

(FIRST) Items THREE to TEN, inclusive, of the RSEO were deleted as they had been satisfactorily completed.

(SECOND) The date for completion of Items ONE (*Exhibit a valid and compliant EICR Certificate*) and TWO (in connection with smoke and heat alarms) of the RSEO was extended to 15<sup>th</sup> June 2024.

#### **5. Documentation produced by the Landlord.**

The Landlord sent the Tribunal a copy of an Electrical Installation Condition Report (EICR) dated 12<sup>th</sup> June 2024. It had been prepared by James Morrison. It identified the overall assessment of the installation in terms of its suitability for continued use to be "Satisfactory"

#### **6. Direction.**

The Tribunal issued a Direction dated 21<sup>st</sup> July 2024 in the following terms:

*'Clause One of the Repairing Standard Enforcement Order dated 7<sup>th</sup> August 2023 required the Landlord to exhibit to the Tribunal a valid and compliant EICR certificate. The Landlord provided the Tribunal with a copy of the Electrical Installation Condition Report ('EICR') prepared by James Morrison. The Tribunal have been unable to determine if the EICR was completed by a skilled person in terms of the guidance.*

*The Tribunal need to determine that the EICR certificate that has been exhibited was completed by skilled person in terms of the guidance.*

*A skilled person (electrically) is defined in BS7671 as:*

*Skilled person (electrically). Person who possesses, as appropriate to the nature of the electrical work to be undertaken, adequate education, training and practical skills, and who is able to perceive risks and avoid hazards which electricity can create.*

*This means that a skilled person must be:*

- Employed by a company that is a member of an accredited registration scheme operated by a recognised body,*
- A sole trader or self-employed individual who is a member of an accredited registration scheme operated by a recognised body, or*
- An individual who is able to satisfactorily complete the checklist provided on the following page of this guidance.*

*The Landlord is directed to provide evidence to the Tribunal that James Morrison is a skilled person as defined above.*

*The Landlord is directed to provide the Tribunal with the information requested no later than close of business on 15<sup>th</sup> August 2024.'*

7. The Tribunal attended at the Property on 24<sup>th</sup> February 2025. The Landlord attended the inspection.

The Tribunal determined that there was a functioning smoke/ heat alarm in the kitchen/living room and functioning heat alarms in the hallway and two bedrooms. The alarms were interlinked and were in working order.

## **8. Decision following the inspection on 24<sup>th</sup> February 2025.**

The Tribunal determined that:

8.1 ITEM TWO of the RSEO (in connection with smoke and heat alarms) has been complied with.

8.2 As the Landlord has not provided the Tribunal with evidence that James Morrison is a skilled person as defined in BS7671 the Landlord has failed to comply with ITEM ONE of the RSEO (Exhibit a valid and compliant EICR Certificate).

8.3 The decision of the Tribunal was unanimous.

## **9. Appeals**

**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.**

**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.**

# J Taylor

Signed...  
April 2025  
Chairperson

.....Date 4<sup>th</sup>