



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 (“the 2006 Act”)

Chamber Ref: FTS/HPC/RP/24/2849

Re: Property at Flat 2, Malcolm Street, Wick, KW1 5AF (“the Property”)

Parties:

The Trustees of the Roman Catholic Diocese of Aberdeen, St Marys House, 14 Chanonry, Old Aberdeen, Aberdeen, AB24 1RP (“the Landlord”)

Tribunal Members:

Ruth O'Hare (Legal Member) and Angus Anderson (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) unanimously determined that the Landlord has made satisfactory progress in carrying out the work required by the Repairing Standard Enforcement Order (“RSEO”) made by the Tribunal on 23 December 2024.

The Tribunal therefore varied the RSEO under section 25(1)(a) of the 2006 Act to extend the period for completion of the works by six months.

Background

- 1 By decision dated 23 December 2024 the Tribunal determined that the Landlord had failed to comply with the duty imposed by section 14(1)(b) of the 2006 Act and made a RSEO under section 24(2) requiring the Landlord to:-
 - (i) Instruct a roofing specialist to inspect the interior and exterior of the property and communal staircase and in particular, the roof and chimneys in order to identify the cause of water ingress and carry out such works as are necessary to ensure the roof is wind and watertight and thereafter to repair the damaged ceiling within the kitchen area;

- (ii) Inspect the lounge and front bedroom windows of the property and carry out such works as are necessary to ensure that they are in a reasonable state of repair;
- (iii) Instruct a suitably qualified electrician to inspect the heating system in the property, and undertake any repairs or replacements required to ensure that the heaters are in a reasonable state of repair and in proper working order;
- (iv) Undertake such repairs and maintenance as are necessary to ensure the water installation is in a reasonable state of repair and in proper working order and thereafter to provide an updated Legionella Assessment and to submit this to the Tribunal;
- (v) Install smoke and heat detectors in the property in accordance with Scottish Government guidance;
- (vi) Repair or replace the external flood lights to ensure these are in proper working order; and
- (vii) Carry out any re-decoration required after completion of the works at (i) and (ii).

The Tribunal ordered that the works be carried out and completed within a period of three months.

- 2 On 22 January 2025 the Tribunal received an email from the former tenant, Mr Paul Baker, advising that he was in the process of vacating the property and would do so by 30 January 2025. On 31 January 2025 the Tribunal received an email from the Landlord confirming that the former tenant had left the property. The Landlord provided an email from the former tenant advising that the keys had been left in the door and he was now living in Spain. The Tribunal therefore concluded that the tenancy between the parties had terminated and removed the former tenant as a party to the application.

The re-inspection

- 3 The re-inspection took place on 22 April 2025 at 10am. The weather was dry and bright with showers in the days prior to the re-inspection. The Landlord was represented by Mr Adam Clarke.
- 4 The Tribunal proceeded to inspect the property and found the following:-
 - (i) Remedial works had been carried out to the centre chimneys and south eastern chimney. The copings had been re-finished and caps fitted to disused cans. The flashings at the masonry and slates had been replaced together with adjacent slates. The roof covering over the kitchen area could not be seen from ground level. Internally, some areas of the ceiling had been replaced in the communal landing.

Staining and bubbled plaster remained as before. Moisture meter readings showed 99% to these areas of the internal plasterwork. Within the flat, the ceiling at the kitchen area had been patched with plasterboard, but finishing plasterworks and redecoration remained outstanding.

- (ii) The lounge and front bedroom windows of the property were found to be unchanged from the previous inspection, with decayed timber, perished putty and defective sash cords.
- (iii) The heating system appeared unchanged from the initial inspection.
- (iv) Only a limited inspection of the plumbing was undertaken. The installation appeared largely unchanged, with dripping taps in the bathroom.
- (v) A multi alarm had been installed in the lounge/kitchen area and a smoke alarm had been installed in the inner hall. The alarms sounded when tested.
- (vi) The two flood lights at the front elevation appeared to have been replaced.
- (vii) Re-decoration in connection with items (i) and (ii) of the RSEO remained outstanding.

5 Mr Clarke explained during the re-inspection that the Landlord did not intend on letting the flat in its current state, but intended to fully refurbish the property, subject to obtaining quotes and funds. The refurbishment would include compliance with the outstanding items on the RSEO.

6 The Tribunal issued the re-inspection report to the Landlord on 12 May 2025. On 14 May 2025 the Tribunal received a response from the Landlord. The Landlord confirmed that they were in agreement with the re-inspection report, with the exception of the external flood lights which had all been replaced. The Landlord did not wish to request a hearing. The Landlord explained that they had instructed a local contractor to complete the works required by the RSEO. However, the former tenant then vacated the property and the Landlord had incurred costs of £2000 in facilitating a deep clean of the property before any internal works could be undertaken. The Landlord provided photographs showing the condition of the property following the former tenant's departure. The Landlord was now considering different options for the property, along with the other three flats in the building. Mr Clarke had been tasked with conducting a review of the Landlord's rental portfolio. He had advised the Landlord that the property should be refurbished and upgraded, with a view to letting it through a letting agency. The Landlord had been in touch with an agency in Aberdeen in this regard. The Landlord confirmed that options were being explored for the heating system. A further legionella risk assessment and electrical installation condition certificate had both been carried out in

March 2025, and the Landlord would provide the Tribunal with copies of these. The Landlord had incurred costs of £45,000 to date on the property, including the communal works required to the roof. The Landlord had no intention of re-letting the property until such time as the RSEO was discharged.

Reasons for Decision

7 The Tribunal reached its decision, having regard to the findings from the re-inspection and the written representations from the Landlord. The Tribunal was satisfied that it had sufficient information to make a determination on the application in the absence of a hearing under Rule 18 of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure 2017 (“the Rules”).

8 The Tribunal had regard to Section 25 of the 2006 Act which states:-

“(1) Where the First-tier Tribunal has made a repairing standard enforcement order, it may, at any time—

(a) vary the order in such manner as it considers reasonable, or

(b) where it considers that the work required by the order is no longer necessary, revoke it.

(2) Where subsection (3) applies, the First-tier Tribunal must vary the repairing standard enforcement order in question—

(a) so as to extend, or further extend, the period within which the work required by the order must be completed, and

(b) in such other manner as it thinks fit.

(3) This subsection applies where—

(a) the First-tier Tribunal considers, on the submission of the landlord or otherwise, that the work required by a repairing standard enforcement order has not been, or will not be, completed during the period within which the order requires the work to be completed, and

(b) the First-tier Tribunal —

(i) considers that satisfactory progress has been made in carrying out the work required, or

(ii) has received a written undertaking from the landlord stating that the work required will be completed by a later date which the First-tier Tribunal consider satisfactory.

(4) References in this Act (including this section) to a repairing standard enforcement order or to work required by such an order are, where the order has been varied under this section, to be treated as references to the order as so varied or, as the case may be, to work required by the order as so varied.”

9 The Tribunal was satisfied based on the evidence before it that the Landlord has made satisfactory progress in carrying out the works required by the RSEO. The Tribunal therefore varied the RSEO to extend the period for completion of the works by a period of six months.

10 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

28 May 2025

Legal Member/Chair

Date

Housing and Property Chamber
First-tier Tribunal for Scotland



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

Variation of a Repairing Standard Enforcement Order under Section 25(1)(a) of the Housing (Scotland) Act 2006

Chamber Ref: FTS/HPC/RP/24/2849

Re: Property at Flat 2, Malcolm Street, Wick, KW1 5AF, being one of three houses in which Building known as Amherst House, Malcolm Street, Wick has been divided, described in and with other subjects conveyed by Feu Charter to Trustees of Roman Catholic Congregation recorded 13 May 1862 (SS 28-98/5507) (“the Property”)

Parties:

The Trustees of the Roman Catholic Diocese of Aberdeen, St Marys House, 14 Chanonry, Old Aberdeen, Aberdeen, AB24 1RP (“the Landlord”)

Paul Baker, Flat 2, Malcolm Street, Wick, KW1 5AF (“the Tenant”)

Tribunal Members:

Ruth O'Hare (Legal Member) and Angus Anderson (Ordinary Member)

The First-tier Tribunal for Scotland (Housing and Property Chamber (“the Tribunal”) having determined on 28 May 2025 that the Repairing Standard Enforcement Order relative to the house made on 23 December 2024 should be varied, the said Repairing Standard Enforcement Order is hereby varied as follows:-

- (i) To extend the period of time for carrying out the works by a period of six months.

Section 25(3) applies in this case.

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

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Please note that in terms of section 28(1) of the Act, a landlord who, without reasonable excuse, fails to comply with a RSEO commits an offence liable on summary conviction to a fine not exceeding level 3 on the standard scale. A landlord (and that includes any landlord's successor in title) also commits an offence if he or she enters into a tenancy or occupancy arrangement in relation to a house at any time during which a RSEO has effect in relation to the house. This is in terms of Section 28(5) of the Act.

R O'Hare

Chairperson

28 May 2025

_____ Date