

Housing and Property Chamber

First-tier Tribunal for Scotland



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

STATEMENT OF DECISION: Housing (Scotland) Act 2006 Section 24 (1)

Chamber Ref: FTS/HPC/RT/23/0758

Property at 23A Court Street, Dundee DD3 7QS

("The Property")

The Parties:-

**Dundee City Council, Private Sector Services Unit, 5 City Square, Dundee DD1 3BA
("the Third-Party")**

**Christopher Airlie, 8/9 Balfield House, Osprey View, Piperdam, Dundee DD2 5LZ
("the Landlord")**

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 Landlord has complied with the duty imposed by Section 14 (1)(b) in relation to the house concerned, and taking account of the written representations by and on behalf of the Landlord and the reinspection, determined that paragraph 3 of Repairing Standard Enforcement Order dated 11 July 2023 should be revoked in terms of section 25(1)(b) of the Housing (Scotland) Act 2006 and upon reconsideration thereafter determined that the Landlord has complied with the duty imposed by Section 14 (1)(b) of the Act.

The Tribunal consisted of:

Rory A.B. Cowan – Legal Member

Robert Buchan – Surveyor/Ordinary Member

The decision of the Tribunal was unanimous.

Background

The Repairing Standard Enforcement Order (RSEO) dated 11 July 2023 required the Landlord to complete the following work within 30 days:

- 1) *To instruct an Electrical Installation Condition Report on the Property by an appropriately qualified electrician being a member of NICEIC, SELECT or NAPIT. To carry out all works identified as either category C1 or C2 in the said Electrical Installation Condition Report in order to ensure that the Property's electrical installations are in a reasonable state of repair and in proper working order. The Electrical Installation Condition Report and all invoices for any work that may be required to be carried out (along with any further certification of same) to be sent to the office of the First-tier Tribunal: Housing and Property Chamber.*
- 2) *To instruct and obtain a Gas Safety Certificate for the Property prepared by an appropriately qualified Gas Safe engineer in order to ensure that the Property's installations for the supply of gas are in a reasonable state of repair and in proper working order. A copy of the Gas Safety Certificate and all invoices for work that may be required to be carried out (along with further certification of same) to be sent to the office of the First-tier Tribunal: Housing and Property Chamber.*
- 3) *To instruct a qualified chartered building surveyor to investigate the source of dampness and mould within the Property (including in the living room and the shower room) and to prepare a report recommending remedial works to eradicate the dampness and mould in order to ensure the Property meets the Repairing and Tolerable standards and to submit the report to the Tribunal for further consideration.*
- 4) *To install a Fire Detection system that meets current legislative requirements.*
- 5) *To repair or replace the collapsed ceiling within the living room for the Property to ensure it is in a reasonable state of repair.*

Reasons for the Decision

On 4 October 2023 the Property was reinspected by the tribunal, and it was noted that none of the works required by the RSEO had been completed. Following that, by decision dated 15 January 2024, the Tribunal determined the Landlord had failed to

comply with the RSEO. A Rent Relief Order (RRO) was made and the failure, and the RRO were notified to Dundee City Council in terms of section 26(2) of the Housing (Scotland) Act 2006.

On or around 1 July 2024 the Tribunal received notification from the Third-party that the Property appeared vacant and was up for sale. Thereafter, on or around 19 July 2024 Messrs W&AS Bruce Solicitors contacted the Tribunal regarding the RSEO and its impact on the proposed sale of the Property. A copy of the RSEO was sent to them which set out the work required. Whilst further correspondence was received from W&AS Bruce Solicitors, which included a copy of a Home Report for the Property, an EICR and Gas Safety certificates and information, a survey by Intona Limited as well as photographs of the Property showing such matters as smoke alarms, the Landlord and his representatives failed (despite correspondence directing them to that requirement) to provide the report as required by paragraph 3 of the RSEO.

After further correspondence, a copy invoice for works to address damp issues and carried out to the Property by Go-Flow Drainage Solutions Limited and dated 18 October 2024 was provided. Notwithstanding, the Landlord had still not complied with the terms of paragraph 3 of the RSEO. By email of 5 February 2025 to W&AS Bruce Solicitors, tribunal administration wrote as follows:

"It was noted in the Tribunal's original decision and at reinspection that the property is of concrete construction and that there was significant dampness and mould throughout the interior. At both inspections, the property was occupied.

Whilst it is noted that the property appears to be vacant and, from the sales particulars, the ceiling in the living room has been repaired and the interior has been redecorated, the report from Intona, does not detail what remedial actions were carried out to address the dampness within the property, it simply reports that dampness is "within acceptable levels". The email from W&AS Bruce dated 8/1/25 states:

"My client accepts that there was an issue with damp in the property and has take all appropriate steps to address this including having gutters fixed, damp proofing works carried out and a new boiler installed."

However, no detail of what "damp proofing works carried out" has been provided and any reduction in dampness could relate to the property being unoccupied and the dampness and mould will re-appear once the property is occupied again after re-let.

The RSEO at part 3 makes it very clear that the Landlord/Respondent was to have a report prepared by a building surveyor and have that submitted to the Tribunal to consider same and whether further orders were necessary. To date, the Respondent has persistently failed to comply with or address the terms of the RSEO.

Ultimately, that is a matter for the Respondent and his advisors. However, if remedial works have been carried out to the Property, details of these works including copy invoices and work specifications should be provided to the Tribunal for their consideration and, after consideration, if the Respondent is of the view the damp has been addressed, he can always request a reinspection with a view to requesting a variation of the RSEO in the event that the Property meets the repairing standard."

Following that email of 5 February 2025 and by email of 15 May 2025, the Landlord requested a reinspection of the Property. Although the Landlord had not complied with paragraph 3 of the RSEO, because there appeared to have been substantial works carried out to the Property, the Tribunal resolved to carry out a further inspection of the Property.

The further reinspection took place on 25 July 2025. Both members of the Tribunal attended that reinspection. The Landlord attended with a Faye Thompson and a Mr Fairlie was in attendance for the Third-party.

On reinspection it was noted that in relation to paragraph 2 of the RSEO and new boiler had been installed, and an appropriate commissioning certificate had been provided. In relation to paragraph 4 of the RSEO, new smoke alarms had been fitted in the appropriate rooms and circulation spaces and a heat detector in the kitchen. In relation to paragraph 5 of the RSEO, the collapsed ceiling had been repaired and redecorated.

Prior to the reinspection, the Landlord had supplied an EICR for the Property dated 31 July 2024 by Care Electrical Contractors Limited, which certified the Property's electrical installations as "satisfactory". Accordingly, in relation to paragraphs 1, 2, 4 and 5, the Tribunal was satisfied that the Landlord had carried out the appropriate repairs to meet his obligations under section 14(1)(b) of the Housing (Scotland) Act 2006. In relation to paragraph 3, whilst the Landlord had not provided a report from a Chartered Building Surveyor as ordered and had therefore chosen to approach repairs in his own way rather than comply with the requirements of the RSEO, the Tribunal noted that works had been carried out to the Property to deal with the issues of damp. That being the case, the Tribunal inspected the Property to assess whether it was substantially free from damp as a result of those works. Upon testing by the Ordinary Member of the Tribunal, the Property was found to be substantially free from damp and therefore the Property met the requirements of section 14(1)(b). However, as the Landlord had not complied with the terms of the RSEO, the Tribunal could not certify such compliance. Having considered the position, and taking into account the various documents supplied as well as their own findings at inspection, the Tribunal decided to revoke paragraph 3 of the RSEO in terms of section 25(1)(b) of the Housing (Scotland) Act 2006 on the basis that the works required by that paragraph were no longer necessary due to the works carried out by the Landlord.

As a result of revocation of paragraph 3 and the Tribunal's findings in relation to the other paragraphs of the RSEO, despite the delays in doing so, the unanimous decision of the Tribunal is that Landlord has therefore now completed all the works required by the remaining parts of the RSEO.

The Ordinary Member prepared a schedule of photographs which are appended to this decision.

Right of Appeal

In terms of section 46 of the Tribunals (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 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.

R Cowan

Signed:

Rory A B Cowan

Date:

8 August 2025

Chairperson

Photographs taken during the inspection of 23a Court Street, Dundee, DD3 7QS. Ref HPC/RT/23/0758



GF flat, Front and Side



Side and Rear

Photographs taken during the inspection of
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Staining at rear



Open vents on gable wall

Photographs taken during the inspection of
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High ground level at the rear



Cracking and vegetation growth below the stack

Photographs taken during the inspection of
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Damp meter reading on side wall



Damp meter reading on back wall

Photographs taken during the inspection of
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Partially collapsed ceiling



Mould on the back wall

Photographs taken during the inspection of
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Mould in back room



Mould in back room

Photographs taken during the inspection of
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Shower room



Extractor fan vent

Photographs taken during the inspection of
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Missing smoke detector



Boiler in the kitchen