

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Notice of Failure to Comply with a Repairing Standard Enforcement Order:
Housing (Scotland) Act 2006 ("the 2006 Act"), section 26

Chamber Ref: FTS/HPC/RP/24/0962

Title Number: LAN191304 in the Land Register of Scotland

Property at Property at 48 Brown Street, Carluke ML8 5DT

("The Property")

The Parties:-

Michelle Clark, 48 Brown Street, Carluke ML8 5DY

("the Tenant")

Noon Investment Homes Limited (Company number SC330168), 32 Douglas
Street, Carluke ML8 5BJ

("the Landlords")

Tribunal Members:

Rory Cowan (Legal Chair)

Nick Allan (Ordinary Member)

Decision

The Tribunal, having carried out such enquiries as are appropriate, determined that the Landlords have **failed to comply** with the requirements of the Repairing Standard Enforcement Order ("RSEO") issued further to a decision of the Tribunal dated 2 July 2024. It further determined that notice of that failure should be served on the Local Authority in whose area the Property is situated. The Tribunal further determined to make a Rent Relief Order.

Background

- 1, The Tribunal issued a Repairing Standard Enforcement Order ("RSEO") relative to the Property on 2 July 2024 following a decision that the Landlords had failed to comply with their duty under section 14(1)(b) of the 2006 Act.

The RSEO required the Landlords to carry out the following works within two months of the date of the RSEO:

- 1) To instruct inspection and preparation of a report on the condition and adequacy (with reference to the current Scottish Government Guidance) of the electrical installations within the living room of the Property, being the electrical circuit for the overhead lights and the electrical circuit relative to the power sockets as well as the Consumer Unit within the Property with regards to Residual Current Device(s) protection for those electrical circuits. The inspection and report should be prepared by an appropriately qualified electrician, being a member of NICEIC, SELECT or NAPIT and to submit the report to the Tribunal for further consideration.*
 - 2) To repair or replace the overflow for the bath within the bathroom in the Property so that it is connected to an appropriate drainage pipe and is in a reasonable state of repair and proper working order.*
 - 3) To repair or replace the carpet and floorplates within the internal hallway within the Property to ensure they are in a reasonable state of repair.*
 - 4) To repair the floor within the living room to ensure that it is level and covered by a suitable floor covering to ensure it is in a reasonable state of repair.*
 - 5) To finish the installation of the kitchen within the Property by fitting the missing unit/cupboard doors, kickboards under the kitchen units and to connect the overflow from the kitchen sink to an appropriate drainage pipe so that the kitchen is in a reasonable state of repair and proper working order.*
2. Following receipt of an application for variation by the Landlords dated 26 August 2024, the RSEO was varied on 3 September 2024 to the extent that the Landlords were allowed a further 28 days to complete the required works.
 3. Following a re-inspection on 8 January 2025, the RSEO was further varied in that paragraph 1 of same was amended on 22 January 2025 to the following and a further 28 days was allowed for works to be completed:

"The First-tier Tribunal will instruct inspection and preparation of a report by an independent and appropriately qualified electrician, being a member of NICEIC, SELECT or NAPIT on the condition and adequacy (with reference to the current Scottish Government Guidance) of the electrical installations within the living room of the Property, being the electrical circuit for the overhead lights and the electrical circuit relative to the power sockets as well as the Consumer Unit within the Property with regards to Residual Current Device(s) protection for those electrical circuits and general safety and upon receipt will consider same in relation to further orders."

4. On 17 April 2025, following receipt of the electrical report arranged by the Tribunal, a further 28 days for work to be completed was allowed and paragraph 1 of the RSEO was further varied as follows:

“To provide the First-tier Tribunal with a detailed schedule and specification of works to be carried out to the electrical installations within the Property prepared by an independent and appropriately qualified electrician, being a member of NICEIC, SELECT or NAPIT in order to remediate the category C1 and C2 findings in the Electrical Installation Report dated 17 February 2025 prepared at the request of the First-tier Tribunal by Barmac Electrical Contractors Limited, a copy of which is produced with this order. The detailed schedule and specification of works should address the unsatisfactory findings in relation to the appropriate cable size for the shower within the Property, the replacement and relocation of the consumer unit and meter tails within the Property.”

5. A further reinspection was scheduled for 24 July 2025. At that reinspection it was noted that, whilst some works had been carried out to the Property, it was noted that:

- The Landlords had not produced the schedule of works from an appropriately qualified electrician as required by the RSEO (as varied);
- The Landlords had not resolved issues with 2 of the floor plates from the hallway;
- The Landlords had failed to complete all required works within the kitchen in that the door for one of the cupboards was still not fitted and a section of the kickboards remained unattached; and
- The hearth with an electric fire and wooden surround that had been fitted to the Property to remedy the issue with the floor within the living room was not flush to the wall and was crudely secured to the wall by silicone sealant along the mantel piece edge (which was now coming away from the wall) and was therefore not in a reasonable state of repair

A schedule of photographs prepared by the Ordinary Member of the Tribunal is attached to this decision.

Reasons for decision

6. In terms of section 28(1) of the Housing (Scotland) Act 2006, it is an offence not to comply with the terms of an RSEO. Section 28(2) allows a reasonable excuse defence where the Landlords are unable to comply with the order because of a lack of necessary rights despite having taken reasonable steps for the purposes of acquiring those rights.

7. The Landlords have failed to provide the schedule of works as directed by the RSEO and failed to carry out all the required works (although some works have been done). Whilst the Tribunal received emails from the Landlords' representatives dated 23 May 2025, 28 May 2025 and 3 June 2025 regarding the Landlords' intentions regarding attending the Property to arrange for the schedule of works and other works, alleged issues regarding access (which the Tenant separately denied) and to seek directions from the Tribunal, the Directions sought were not ones the Tribunal could issue. This was pointed out to the Landlords' representative by correspondence dated 6 June 2025. It was also suggested in that correspondence that the proper approach would, if there were claims of issues with access, be to seek an order for access and a variation of the RSEO to allow time for that application to be progressed. Despite this, no such application was made until after the reinspection on 24 July 2025. Despite the very serious faults with the electrical installations, no explanation for this delay has been given. Standing the serious nature of the faults with the electrical installations, the Tribunal was not minded to allow any further variations to allow more time for the required works to be carried out. It should be noted that, notwithstanding this decision, the Landlords can still progress any application they wish.
8. The original RSEO was issued following a decision of the Tribunal dated 2 July 2024. Accordingly, more than 12 months have passed since service of the RSEO. There have already been 3 variations to allow more time for works although one of those was for the purpose of the Tribunal itself to obtain another EICR due to concerns over the accuracy of the EICR obtained by the Landlords and the general safety of the electrical installations within the Property.
9. In terms of section 28(4) of the 2006 Act, the Tribunal decided on 5 August 2025 that the Landlords have failed to comply with the terms of the RSEO.
10. Therefore, in terms of section 26(2)(a) of the Act, the Tribunal determined to send a notice of that failure to the Local Authority in whose area the Property is situated.
11. The Tribunal is required in terms of section 26(2)(b) of the Act to decide whether to make a Rent Relief Order. Whilst the Landlords have carried out some works, the EICR obtained by the Tribunal identified potentially dangerous and very serious faults with the electrical installations within the Property. Accordingly, the Tribunal decided to make a Rent Relief Order to the extent of ninety (90%) per cent of the rent payable in terms of the lease agreement between the parties. Whilst there are other works that are outstanding, these are relatively minor and would not, in themselves, warrant the imposition of a Rent Relief Order.
12. The decision of the Tribunal was unanimous.

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 within 30 days of the date the decision was sent to them.

Where such an appeal is made, the effect of the decision and the order is suspended until the appeal is abandoned or finally determined, and where the appeal is abandoned or finally determined by confirming the decision, the decision and the order will be treated as having effect from the day on which the appeal is abandoned or so determined.

R Cowan

Date: 5 August 2025

Housing and Property Chamber
First-tier Tribunal for Scotland



2nd Re-inspection Photograph Schedule
48 Brown Street, Carlisle,
ML8 5DT

Case Reference: FTS/HPC/RP/24/0962

Date of inspection: 24/07/2025

Time of inspection: 10.00 am

Weather conditions: Clear and dry

Present: Mr Rory Cowan – Legal Member
Mr Nick Allan – Ordinary Member
Miss Michelle Clark – Tenant
Miss Tracy Campbell-Hynd – Landlord's Rep.



Photo 1 – Front elevation



Photo 2 – Untouched Consumer Unit in Living Room



Photo 3 – Crudely attached fire surround and gap

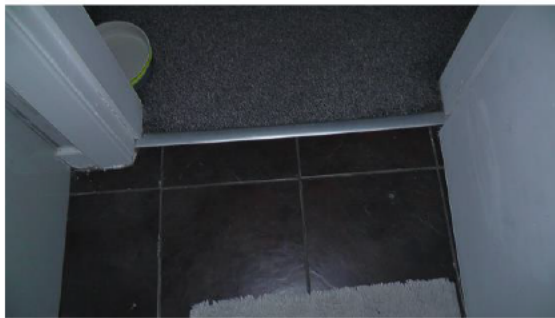


Photo 4 – Badly fitted and loose threshold plate (Kitchen)



Photo 5 – Raised screwhead on Bedroom threshold

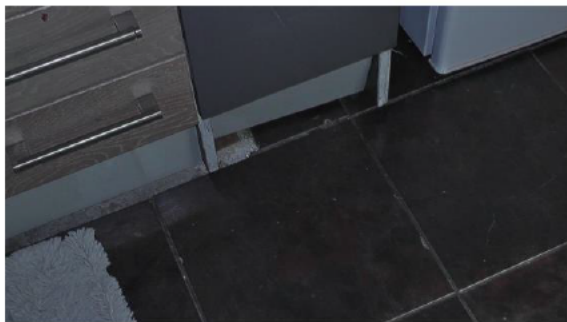


Photo 6 – Kick board panel remains unattached



Photo 7 – Kitchen sink overflow now in place



Photo 8 – Mould at Landing Head window

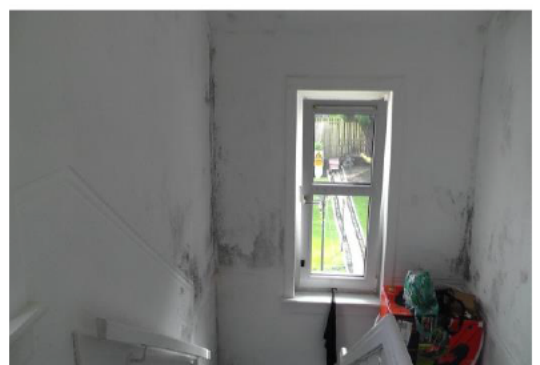


Photo 9 – Mould around Half Landing window



Photo 10 – Roofline detail



Photo 11 – Rear Elevation

Inspection Notes

1. The Tribunal noted that the issue with the rear-left hand side of the metal consumer unit casing remains as before, where a section had been crudely cut out to create more space for the mains power cable supplying the property to be accommodated. The Tribunal noted the continuing potential for this cable to catch on the jagged exposed metal. Photograph 2 above refers.
2. The Tribunal noted that the threshold plate at the Kitchen door remains as before and continues not be properly secured. The Tribunal noted once again that the threshold plate at the Bedroom door continues to have a raised screw that could pose a risk of injury. Photograph 4 above refers.
3. The Tribunal noted the continued absence of a cupboard door on the Kitchen unit housing the refrigerator.

Nick Allan FRICS

Surveyor – Ordinary Member

First-tier Tribunal - Housing and Property Chamber – 29th July 2025