

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 60

Chamber Ref: FTS/HPC/RT/18/2235

Title Number: STG 30207

111 Milton Gardens, Whins of Milton, Stirling, FK7 0JN (“the Property”)

The Parties: -

**Stirling Council, Allan Water House, Room 10, Kerse Road, Stirling, FK7 7SG
 (“the Third Party”)**

**Mr Stewart Horsburgh, 19 Meadowlands, Portstewart, County Londonderry,
Northern Ireland BT55 7FG (“the Landlord”)**

Tribunal Members:

Josephine Bonnar (Legal Member) and Carol Jones (Ordinary Member)

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 Repairing Standard Enforcement Order (“RSEO”) relative to the property dated 6 December 2018, determined that the Landlord has complied with the order and that a certificate of completion to that effect should be issued.

Background

1. By application dated 31 August 2018 the Third Party applied to the First-tier Tribunal for Scotland (Housing and Property Chamber) for a determination of whether the Landlord had failed to comply with the duties imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 (“the Act”). The Application stated that the Landlord had failed to comply with his duty to ensure that the house meets the repairing standard. Specifically, the Third Party complained of:- (1) Exposed carpet grippers between living room and kitchen, (2) Hallway – unidentified live wire in cupboard, electrical board tripping, (3) Upstairs hallway

– staircase window does not open, (4) Bathroom – expelair fan cover loose, window does not operate properly, bath panel and pipework require to be boxed in following leak, (5) Bedroom 1 – unidentified live wire protruding from wall, faulty radiator, (6) Bedroom 2 – wardrobe doors and bedroom door do not open or close properly, light fitting broken, (7) Bedroom 3 – hole in wall where socket is, filled with wood, (8) Kitchen – back door window panel missing, possible water leak or penetration underneath sink/black mould, no CO detector although gas cooker (9) Gutters leaking and broken, (10) No carbon monoxide detector at boiler, inadequate smoke/heat detectors. The application also stated that no EICR, gas safety certificate or energy performance certificate has been provided to the Tenant and that the Tenant did not wish to be treated as a party to the application.

2. The Tribunal served Notice of Referral in terms of Schedule 2, Paragraph 1 of the Act on the parties on 3 October 2018. The parties were notified that an inspection would take place on 12 November 2018 at 11.30am and that a hearing would take place on 16 November 2018 at 10am at STEP Stirling, Stirling Enterprise Park, John Player Building, Stirling.
3. Following the inspection and hearing the Tribunal issued a RSEO in relation to the property. This required the Landlord to (a) repair or replace the defective threshold bar between the kitchen and living room to ensure it is safe and in a reasonable state of repair, (b) instruct a suitably qualified window contractor to inspect the windows in the bathroom and at the landing on the stairs and carry out any necessary repairs to ensure that the windows are in proper working order; or replace the windows, (c) repair or replace the defective fan in the bathroom, (d) install a new bath panel and box in exposed pipework in the bathroom, (e) replace the sliding doors of the fitted wardrobe in the front bedroom with properly fitting doors and ensure they are in proper working order, (f) repair or replace the entrance door of the front bedroom so that the door opens and closes properly, (g) replace the damaged ceiling mounted pendant light fitting in the front bedroom, (h) replace the external back door in the kitchen with a new door, (i) instruct a report from a suitably qualified damp proofing and condensation specialist to investigate the cause of dampness and/or condensation on the external wall behind the kitchen sink, exhibit a copy of the report from the specialist to the Tribunal, carry out any recommendations identified in the report and repair all damage, (j) instruct a Gas Safe registered engineer to carry out an inspection of the gas appliances at the property and provide the Tribunal with a Gas Safety Record (k) instruct a suitably qualified roofing contractor to repair and clean out all rainwater goods at the property, to ensure that they do not leak and are in a reasonable state of repair; or to replace the rainwater goods, (l) install new hard-wired interlinked smoke and heat detectors in the property to comply with current regulations and guidance, and (m) instruct a suitably qualified SELECT, NAPIT or NICEIC registered electrician to carry out a certified electrical inspection of the entire electrical installation in the property after the installation of new smoke and heat detectors, carry out any necessary repairs or alterations, and exhibit a satisfactory EICR to the Tribunal. The work was to be completed within 6 weeks of the order being issued.

4. The Ordinary Member of the Tribunal re-inspected the property on 14 February 2019. It was noted that new ceiling mounted hard wired interlinked smoke and heat detectors had been installed at the property which comply with current regulations and guidance and appeared to be in working order when tested. No other work in terms of the RSEO had been carried out. The Tenant stated that a window contractor had attended in January 2019 and took measurements for replacement windows, but no work had been undertaken since that visit. She further advised that the electrician who installed the smoke and heat detectors may have carried out an inspection, but she had not been provided with an EICR or with a gas safety report since a gas engineer attended at the property at some point after 12 November 2019. Mr Paterson (the Third-Party representative) stated that he had not received an EICR or gas safety record for the property.
5. A re-inspection report was issued to the parties, but no response was received from the Landlord or Tenant. The Third Party stated that they agreed with the report and invited the Tribunal to issue a Rent Relief Order ("RRO").
6. On 25 March 2019 the Tribunal determined that the Landlord had failed to comply with the RSEO and issued an RRO in terms of Section 27 of the Act, reducing the rent payable by 60%.
7. A further re-inspection took place on 22 July 2021. Access was provided by the new tenant. The Tribunal noted that there was a new threshold bar between the kitchen and living room and a new front bedroom door. The new tenant stated that she had installed these. The Tribunal also noted that work had been carried out to conceal the exposed pipework in the bathroom and a bath panel fitted, although this did not fit properly, had gaps at both ends, and was cracked. A new ceiling mounted pendant light fitting had also been fitted in the front bedroom. No other work required by the RSEO had been completed.
8. On 12 August 2021, the Landlord's agent submitted an EICR and gas safety certificate which appeared to be in satisfactory terms. They also provided an update on further work which had been carried out and was due to be carried out. In response to a request for an update on 2 September 2021, the agent provided a further update. They listed the work which had been carried out, stated that the rear door and window were scheduled to be addressed on 27 September 2021 and provided a number of invoices. They also provided a report and invoice from Alliance Preservation Scotland Ltd in relation to work carried out in the kitchen to treat the damp in the rear wall behind the kitchen sink. On 30 September 2021, the Tribunal issued a request for confirmation that the work had been completed, but no response was received.
9. On 15 January 2025, the landlord's agent requested a re-inspection of the property. This was arranged but had to be cancelled and re-arranged to accommodate the tenant's holidays. The re-inspection took place on 27 August 2025 at 10am. Access was provided by a friend of the tenant. The Landlord's agent Ms Rae attended. Neither the Landlord nor the Third Party were in attendance.

The Re-inspection

10. The Tribunal noted the following: -

- (a) The bathroom and landing windows have been repaired and both now open and close properly
- (b) The extractor fan in the bathroom has been repaired. The cover is now secure and there are no exposed electrical wires. When tested it was found to be in working order.
- (c) The bath panel has been replaced. Minor defects are still evident.
- (d) The sliding doors to the fitted wardrobe in the front bedroom have been adjusted and painted.
- (e) A new UPVC back door has been installed in the kitchen.
- (f) Work has been carried out to eradicate the damp in the rear wall behind the kitchen sink
- (g) New PVC gutters have been fitted to the rear and front of the property.

11. Following the re-inspection the agent submitted a current gas safety record prepared by a gas safe registered engineer dated 27 September 2024. A copy of re-inspection report was issued to the Landlord and Third Party on 4 September 2025, but no response or representations were received.

Findings in Fact

- 12. The defective threshold bar between the kitchen and living room has been replaced.
- 13. The windows in the bathroom and the landing have been repaired and are in proper working order.
- 14. The defective fan in the bathroom has been repaired.
- 15. A new bath panel has been fitted and exposed pipework in the bathroom has been boxed in.
- 16. The sliding doors of the fitted wardrobe in the front bedroom have been adjusted and are in working order.
- 17. The entrance door of the front bedroom has been replaced and now opens and closes properly.

18. The damaged ceiling mounted pendant light in the front bedroom has been replaced.
19. The external back door in the kitchen has been replaced with a new door.
20. A report from a suitably qualified damp proofing and condensation specialist in relation to dampness on the external wall behind the kitchen sink has been provided.
21. The dampness on the external wall behind the kitchen sink has been eradicated.
22. A Gas Safety Record from a Gas Safe registered engineer in satisfactory terms has been provided.
23. The gutters at the property have been replaced.
24. New hard-wired interlinked smoke and heat detectors have been installed in the property which comply with current regulations and guidance.
25. An EICR from a NICEIC registered electrician in satisfactory terms has been provided.

Reasons for Decision

Parts 1, 2 and 6 of the RSEO - threshold bar, bathroom window and bedroom door.

26. Although the replacement threshold bar and bedroom door and the repair to the bathroom window were actually carried out by the current tenant of the property, the Tribunal is satisfied that these defects have been addressed, and repairs are no longer required. With the assistance of the current tenant, there has been compliance with these parts of the RSEO

Parts 2, 3, 4, 7, 8 and 12 of the RSEO – landing window, fan in the bathroom, bedroom pendant light, back door and smoke and heat detectors.

27. Smoke and heat detectors were installed by the landlord prior to the first re-inspection. These comply with current regulations and guidance and were found to be in proper working order. The pendant light was fitted and the exposed pipes in the bathroom were boxed in prior to the re-inspection in 2021. Since then, the window on the landing and extractor fan have been repaired and a new PVC back door installed in the kitchen. The Landlord has therefore complied with these parts of the RSEO.

Part 4 of the RSEO – bath panel

28. Although a bath panel was fitted prior to the re-inspection in 2021, this was found to be ill fitting, cracked and with gaps at both sides. This has been replaced. Although there is a small crack and minor gaps were noted at the adjacent boxed pipes, the Tribunal is satisfied that these are minor issues and that the Landlord has now complied with this part of the RSEO.

Part 5 of the RSEO – wardrobe doors

29. The RSEO required the Landlord to replace the wardrobe doors. He has not done so. However, he has arranged for them to be adjusted/repaired and painted. There are minor gaps at the top and sides, but the doors now slide properly on their tracks. In the circumstances, the Tribunal is satisfied that replacement doors are no longer required and that there has been compliance with this part of the RSEO.

Part 9 of the RSEO – dampness in rear kitchen wall

30. In August 2021, the Landlord provided a report and invoice from Alliance Preservation Scotland Ltd for work carried out in relation to the kitchen wall. This included the installation of a chemical damp proof course and damp proof membrane. At the re-inspection the Tribunal noted the absence of any evidence of dampness in the wall. The Tribunal is therefore satisfied that there has been compliance with this part of the RSEO.

Parts 10 and 13 of the RSEO – EICR and Gas Safety

31. The Landlord provided these documents following the 2021 re-inspection. The EICR is still current. An up-to-date gas safety record was provided on 27 August 2025. The Landlord has complied with these parts of the RSEO.

Part 11 of the RSEO – rainwater goods

32. Although this part of the RSEO refers to rainwater goods, only the gutters appear to have been replaced. However, although there is a recent buildup of vegetation in the rear gutter, there is no evidence of leaks, and the Tribunal is satisfied that the Landlord has complied with this part of the RSEO.

Decision

- 33. The Tribunal determined that the Landlord has complied with the RSEO and that a certificate of completion should be issued.
- 34. The Tribunal also determined that the RRO dated 25 March 2019 should be revoked.
- 35. The decision of the Tribunal is unanimous.

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

In terms of Section 63 of the Act, 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.

Josephine Bonnar, Legal Member

25 September 2025