

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 26

Reference number: FTS/HPC/RT/24/2210

Title No: STG15700

Re: Property at 41 Comely Place, Falkirk, FK1 1QG (“the Property”)

The Parties:

Falkirk Council, Private Sector Team, Suite 2, The Forum, Callendar Business Park, Falkirk, FK1 1XR (“The applicant”)

Mr Rysard Wegrzyn, residing at Flat 7 Margret Allen House, 32 Broomy Hill, Hereford, HR4 0LH (“the Landlord”)

Jozef MacIntosh, residing at 41 Comely Place, Falkirk, FK1 1QG (“The Tenant”)

Tribunal Members:

Paul Doyle (Legal Member)

Sara Hesp (Ordinary Surveyor Member)

Unanimous Decision of the Tribunal

The First-tier tribunal for Scotland (Housing and Property Chamber) (‘the tribunal’) finds that the landlord has failed to comply with the Repairing Standard Order made on 20 February 2025 and declines to certify that the work required by the Repairing Standard Enforcement Order relative to the Property made on 20 February 2025 has been completed. Accordingly, the said Repairing Standard Enforcement Order remains in place.

Background

(1) On 20 February 2025 the First-tier Tribunal for Scotland (Housing and Property Chamber) (“the tribunal”) issued a decision requiring the Landlord to comply with the repairing standard enforcement order (“RSEO”) made by the tribunal.

(2) The Tribunal have tried to inspect and reinspect the property but have not been allowed access.

(3) The Repairing Standard Enforcement Order (“RSEO”) required the Landlord to

- (a) Install interlinked smoke and heat detectors, and carbon monoxide detectors within the property, ensuring that they are fully functional and located and powered in accordance with the Housing (Scotland) Act 2006 (Modification of the Repairing Standard) Regulations 2019.

- (b) Instruct a suitably qualified SELECT, NICEIC or NAPIT registered electrician to carry out a certified Electrical Installation Condition Report (EICR) of the entire electrical installation in the property (and any electrical appliances and equipment supplied by the landlord) and carry out all necessary remedial works to rectify any identified C1 and C2 categorised areas, and certify that the smoke heat and CO detectors installed in the property comply with the Housing (Scotland) Act 2006 (Modification of the Repairing Standard) Regulations 2019.

- (c) Thereafter to provide the First-tier Tribunal for Scotland (HPC) with a satisfactory EICR and up to date PAT certificate prepared by a suitably qualified SELECT, NICEIC or NAPIT registered contractor.

- (d) Instruct a suitably qualified Gas Safe registered engineer to inspect and carry out all works necessary to leave the gas central heating boiler and gas hob in good working order. Thereafter to provide the First-tier Tribunal for Scotland (HPC) with an up-to-date and satisfactory Gas Safety Record from a suitably qualified and Gas Safe registered heating engineer on the safety of the gas central heating system and all other gas appliances in the property.

All within 35 days.

(4) A reinspection of the property was scheduled for 5 June 2025. On 25 May 2025 the Landlord sent an EICR dated 01 May 2025 to the tribunal. The author of the EICR is not a suitably qualified SELECT, NICEIC or NAPIT registered contractor.

(5) Tribunal members have never been granted access to the property. Because of the procedural history, the reinspection arranged for 5 June 2025 was cancelled, and a telephone conference was arranged for 27 August 2025.

(6) A hearing took place by telephone conference at 10.00am on 27 August 2025. The Applicant was represented by Mr C Beatt. The Landlord was neither present nor represented.

(7) The Landlord has not engaged with the tribunal process. The EICR provided is not from a suitably qualified SELECT, NICEIC or NAPIT registered contractor. Because access has not been provided, the Landlord fails to demonstrate that functioning smoke/heat detectors are in place; nor whether there is a gas supply; nor whether a carbon monoxide detector is needed

(8) The only reasonable conclusion the tribunal can come to is that the Landlord has chosen not to carry out the work required by the repairing standard enforcement order dated 20 February 2025.

DECISION

(9) The works required by the RSEO have not been completed. The tribunal therefore refuse to issue a certificate of completion of works in terms of s. 60 of the Housing (Scotland) Act 2006 because the landlord has failed to comply with the RSEO made on 20 February 2025.

Right of Appeal

(10) 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.

(11) 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.

Signed P Doyle
Legal Member

27 August 2025