

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 Sections 26, 27 & 28

Chamber Ref: FTS/HPC/RP/24/1314

Land Register Title Number: ANG38685

**Property at 45 High Street, Montrose, DD10 8LR
("the Property")**

The Parties:-

Mrs Svetlana Strobe, formerly 45 High Street, Montrose, DD10 8LR ("the Former Tenant")

Mr Alan Bruce, 144 East Woodmains Road, Glasgow, G76 7HF ("the Landlord")

Tribunal Members – Gillian Buchanan (Legal Member) and David Godfrey (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") in relation to the Property, determined that (i) the Landlord has failed to comply with the RSEO in terms of Section 26 of the Housing (Scotland) Act 2006 ("the said Act"), (ii) a Notice of Failure to Comply with the RSEO should be served on the relevant local authority within which the Property is situated, and (iii) the matter should be reported to the Police for consideration for prosecution under Section 28 of the said Act.

Background

1. Reference is made to the determination of the tribunal dated 24 March 2025 which determined that the Landlord had failed to comply with the duty imposed by Section 14(1)(b) of the Act in that it had failed to ensure that the Property met the repairing standard. The works required by the RSEO were: -
 - i. To instruct a suitably qualified roofing contractor (a) to carry out an inspection of the roof of the Property and (b) to provide a written report on whether the roof is wind and watertight and in a reasonable state of repair with no water ingress into the Property and, where needed, including full details of all works considered by the contractor as

being necessary to ensure that the Property is wind and watertight and in a reasonable state of repair with no water ingress.

- ii. To instruct a suitably qualified damp specialist to (a) carry out an inspection of the Property and (b) to provide a written report on whether the Property is substantially free of rising or penetrating or other form of dampness such that it is on is reasonably fit for human habitation and meets the tolerable standard and, where needed, including full details of all works considered by the contractor as being necessary to ensure that the Property is substantially free of rising or penetrating or other form of dampness such that it is on is reasonably fit for human habitation and meets the tolerable standard.
- iii. To instruct a suitably qualified building contractor (a) to carry out an inspection of the Property and (b) to provide a written report on whether –
 - the floors throughout the Property are level and in a reasonable state of repair and meet the tolerable standard;
 - the windows within the Property are in a reasonable state of repair and in proper working order such that they open, close and lock correctly;
 - the steps serving the Property are in a reasonable state of repair and in proper working order;

and, where needed, including full details of all works considered by the contractor as being necessary to ensure that the floors throughout the Property are level and in a reasonable state of repair and meet the tolerable standard, the windows within the Property are in a reasonable state of repair and in proper working order such that they open, close and lock correctly and the steps serving the Property are in a reasonable state of repair and in proper working order.

- iv. To instruct a suitably qualified surveyor (a) to carry out an inspection of the Property and (b) to provide a written report on whether the Property has adequate thermal insulation and meets the tolerable standard including full details of all works considered by the contractor as being necessary to ensure that the Property has adequate thermal insulation and meets the tolerable standard.
- v. To instruct a suitably qualified plumbing contractor (a) to carry out an inspection of the Property and (b) to provide a written report on whether the installations within the Property for the supply of water and sanitation, and for heating water, drainage and disposal of foul and surface water area in a reasonable state or repair and in proper working order and, where needed, including full details of all works considered by the contractor as being necessary to ensure that the installations within the Property for the supply of water and sanitation, and for heating water, drainage and disposal of foul and surface water area in a reasonable state or repair and in proper working order.
- vi. To produce to the tribunal the reports referred to in i. to v. above for consideration and approval of any works identified as being required.

- vii. Following approval by the tribunal in terms of paragraph vi. above to arrange for the approved works to be executed and following the execution of the approved works, to provide evidence thereof to the tribunal.
- viii. To carry out any and all making good and decoration associated with the approved works.

The tribunal ordered that the works specified in paragraph (a) of the RESEO must be carried out and the specialist report referred to therein delivered to the tribunal within the period of 3 months from the date of service of the RSEO.

Reinspection

- 2. By letter dated 25 July 2025 the tribunal advised the Landlord that a re-inspection of the Property would take place on 20 August 2025 at 10.00am and that access to the property would be required. The letter was sent by "Signed For" post, was delivered on 26 July 2025 and was signed for by "Bruce" at 10:14am.
- 3. On 20 August 2025 at 10.00am the tribunal attended at the Property to carry out the re-inspection.
- 4. The Landlord was neither present nor represented.
- 5. The tribunal used the communal door entry buzzer to call for access to the Property. There was no answer and access to the Property could not therefore be obtained.
- 6. From the exterior the Property appeared empty and in a poor state of repair. Within one of the windows fronting High Street was a "For Sale" Board in the name of BLK Property Group, Glasgow.
- 7. A schedule of photographs is attached hereto.

Reasons for Decision

- 8. In terms of Section 26(1) of the Act it is for the tribunal to decide whether a landlord has complied with an RSEO. In terms of sub-section (2), where the tribunal determines that a landlord has failed to comply with an RSEO, the tribunal must (a) serve notice of the failure on the local authority; and (b) decide whether to make a Rent Relief Order ("RRO").
- 9. The tribunal determined that the Landlord has failed to comply with the RSEO.
- 10. In terms of the RSEO the tribunal required that the Landlord provide to the Tribunal various reports from suitably qualified contractors prepared following inspections of the Property and including full details of all works considered by the contractors as being necessary to ensure that the Property meets the Repairing Standard relative to their respective field of expertise. In terms of the RSEO following the production of the reports the tribunal would consider and approve or otherwise the works identified as being required with the Landlord thereafter being required to arrange for the approved works to be executed with evidence thereof being provided to the tribunal.
- 11. The tribunal has received no reports from the Landlord nor any engagement of any description whatsoever. The tribunal therefore concludes that the Landlord has taken no

steps to instruct the required contractors. From the condition of the Property externally, it is apparent that no remedial works have been carried out.

12. Accordingly the tribunal is obliged to serve notice of the failure on the local authority and resolved to do so.
13. The tribunal then decided whether or not to make an RRO. In that the Former Tenant has long since vacated the Property an RRO could not be made.
14. The tribunal also considered the terms of Section 28 of the Act. Sub-section (1) specifies that a landlord who, without reasonable excuse, fails to comply with an RSEO commits an offence. The Landlord has offered no explanation as to his failure to comply with the RSEO nor any indication as to when he will comply. Accordingly, in the circumstances, the tribunal was of the view that Section 28(1) had been breached and therefore also resolved to report the matter to the Police for consideration for prosecution.

Decision

15. The tribunal determined that in terms of the Act the Landlord had failed to comply with the RSEO. The tribunal determined to serve a Notice of Failure to Comply with the RSEO on the relevant local authority within which the Property was situated and to report the matter to the Police for consideration for prosecution.
16. The decision of the tribunal was unanimous.

A landlord, tenant or third party applicant aggrieved by the decision of the tribunal may seek permission to appeal from the First-tier Tribunal on a point of law only 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.

G Buchanan

_____ Legal Member & Chairperson

29 August 2025