

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Determination: Housing (Scotland) Act 2006: Sections 26 and 27

Chamber Ref: FTS/HPC/RT/25/3121

121 William Street, Dalbeattie, DG5 4EE, being the subjects registered in the Land Register of Scotland under Title Number (“the Property”)

The Parties:-

Dumfries and Galloway Council Housing Standards, Militia House, Dumfries, DG1 2HR (“the Third Party Applicant”)

Ms Teresa Maxwell, Comet House, The Green, Stapleton, Darlington, DL2 2QQ (“the Respondent” and “the Landlord”)

Mr Alisdair Stewart, 121 William Street, Dalbeattie, DG5 4EE (“the Tenant”)

Tribunal Members:

Mr Martin McAllister, Solicitor (Legal Member) and Mr Donald Wooley, Chartered Surveyor (Ordinary Member) (“the tribunal”)

Decision

The tribunal determined:

(One) that the Landord has failed to maintain the Property to the repairing standard as set out in Section 13 of the Housing (Scotland) Act 2006 and

(Two) that a repairing standard enforcement order (RSEO) be made in terms of Section 24 of the Housing (Scotland) Act 2006.

Background

1. By application dated 18 July 2025, the Third Party Applicant applied to the Housing and Property Chamber of the First-tier Tribunal for Scotland for a determination of whether the Landlord has failed to comply with the duties imposed by Section 14 (1) (b) of the Housing (Scotland) Act 2006 as

amended (“the 2006 Act”). The application is in terms of Section 22 (1A) of the 2006 Act.

2. The Tenant and the Respondent are parties to a short assured tenancy agreement dated 23 March 2001.
3. The application states that the Property does not meet the repairing standard set out Section 13 of the 2006 Act: it states that the Property does not have an interlinked system of fire and smoke alarms or an electrical installation condition report (“EICR”).
4. On 21 August 2025, a Notice of Acceptance was issued by a legal member of the Tribunal acting under delegated powers of the Chamber President.
5. On 28 August 2025, the Tribunal issued a Direction requiring the Respondent to provide an EICR and evidence of there being in the Property, a system of interlinked fire detection devices and a heat alarm.

Property Inspection

6. The members of the tribunal inspected the Property on 19 September 2025. Ms Lafferty of Dumfries and Galloway Council, the Landlord and the Tenant were in attendance.

Findings on Inspection

7. A schedule of photographs and summary of site observations, prepared by the Ordinary Member, is attached to this Decision and is referred to for its terms.
8. The Property was originally constructed as a single storey and attic end terraced dwellinghouse and is in excess of one hundred years old. The attic has subsequently been converted and extended to provide additional accommodation and is accessed via a steep internal stair and incorporates a large flat roofed dormer projection.
9. There are no gas heating or solid fuel heating appliances.
10. A detailed internal inspection was restricted due to a significant volume of stored items throughout the Property.
11. There are no interlinked smoke and heat detectors in the entrance hall/living area, first floor landing and kitchen. It was noted that a temporary battery operated smoke detector was installed in the hall ceiling. The Landlord indicated that this had been installed by the Fire Authority.

12. No current EICR was available and none had been given to the Tenant.

13. It was noted that a residual current device ("RCD") was installed at the electrical consumer unit.

Hearing

14. A Hearing was held by teleconference on 21 September 2025. Ms Lafferty, the Landlord and the Tenant participated.

15. The Ordinary Member set out the findings from the Inspection.

Representations from the Respondent

16. The Respondent submitted written representations on 27 August 2025 and stated the following:

16.1 The Property had been specifically bought to accommodate the Respondent and had been let on a furnished basis.

16.2 Attempts had been made by her to have work carried out to the Property and there were issues about the "extreme clutter" within it and the Tenant's difficulties in co-operating with contractors.

16.3 An electrician had been instructed to carry out work to fit interlinked alarms and the Tenant had advised the Landlord that he had been informed by that electrician that the electrical wiring required to be upgraded and, as a consequence no alarms had been fitted.

Representations at the Hearing

17. The Respondent said that she had instructed an electrician to install interlinked smoke and heat detectors but that he could not produce an EICR because he did not have the necessary authorisations to do so. She said that she was in the process of finding another contractor who could do so.

18. The Tenant said that, at his own expense, he had purchased a foam- filled fire extinguisher for downstairs and a water filled one for upstairs.

19. The Tenant said that he would not want any smoke/ heat detectors to function through wifi or Bluetooth because this would cause him to have headaches. He said that he would want any such detectors to be hardwired although he said that he considered that the fire extinguishers he had installed were in excess of the requirements of current regulations.

Discussion and Determination

20. The tribunal considered the written representations submitted by the Respondent. It also considered what the Respondent and Tenant had said at the Hearing.

21. The tribunal determined that the Property did not meet the repairing standard. No EICR was available. In relation to smoke and heat detection, no interlinked system was in place. The tribunal would have expected a heat detector in the kitchen and smoke detectors in the upper landing and open plan hall/ lounge area to be in existence and to be interlinked.

22. The tribunal determined to make a RSEO in the following terms:

22.1 The Landlord is required to produce a current Electrical Installation Condition Report for the Property. The Report requires to be prepared by an electrician registered with SELECT, NICEIC NAPIT or other accredited registered scheme who is either employed by a firm that is a member of such accredited scheme or is a self-employed member of such a scheme. The Report requires to confirm that the installation is “satisfactory,” has appropriate RCD protection wholly compliant with the repairing standard and has no recommendations in the C1 or 2 category or F1 items for further investigation.

22.2 The Landlord is required to install an interlinked system of smoke and heat detectors to comply with Scottish Government Regulations.

The Landlord requires to comply with the RSEO by 30 November 2025.

Reasons

23. The tribunal had regard to what it had found at the inspection of the Property, the written representations of the Respondent and the oral evidence of both the Respondent and the Tenant.

24. The tribunal had regard to the statutory obligations imposed upon a residential landlord to ensure that properties meet the repairing standard throughout tenancies.

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.

M J McAllister

Martin J. McAllister,
Solicitor, legal member of the
Tribunal.
25 September 2025.