



**Note of the First-tier Tribunal for Scotland (Housing and Property Chamber)
under Section 24 of the Housing (Scotland) Act 2006**

Chamber Ref: FTS/HPC/RP/24/5595

Re: 95 Stevenston Court, New Stevenston, ML1 4HW (“the Property”)

Parties:

Mr Jacek Gizinski, 95 Stevenston Court, New Stevenston, ML1 4HW (“the Applicant”)

Mrs Sharon Kerr, c/o Property Angels, 14 Main Street, Bothwell, G71 8RF (“the Respondent”)

Tribunal Members:

Andrew Upton (Legal Member) and Andrew Taylor (Ordinary Member)

Summary of Review

1. On 10 July 2025, the Tribunal made a Repairing Standards Enforcement Order against the Respondent. In terms thereof, the Tribunal required the Respondent to appoint a suitably qualified condensation/damp specialist to investigate the cause of condensation, dampness and mould in all areas of the property including any ventilation issues, external causes such as leaking gutters, absence of or compromised Damp Proof Courses, etc, and to report thereon; such report to include a specification of recommended works for remedying any want of repair associated with condensation, dampness and mould to the Tribunal for further consideration. The Tribunal allowed the Respondent 42 days to do so.
2. On 26 August 2025, the Respondent produced a Report by Bromac Limited dated 20 August 2025. On 27 August 2025, the Applicant wrote to the Tribunal to challenge the Bromac Limited Report. In particular, the Applicant asserted that no moisture readings were taken by Bromac Limited during its inspection, and no detailed investigation was undertaken.
3. On 30 October 2025, the Tribunal convened to consider whether the Respondent had complied with the RSEO. The Tribunal had regard to the

Bromac Limited Report. The Tribunal identified a number of concerns with the content of the Report. In particular:-

- a. The Report did not specify the methodology adopted by Bromac Limited when inspecting the Property;
 - b. The Report did not detail the findings of Bromac Limited during the inspection of the Property;
 - c. No vouching was attached to the Report to support the proposed findings;
 - d. The Report makes recommendations for alleviating condensation in the Property based on applying a constant low heat in the Property, but presumes (without evidence) that the Applicant has failed to do so, and fails to specify what is meant by a “low heat”;
 - e. The Report makes recommendations for alleviating condensation in the Property based on improving ventilation, but does not address whether the Applicant has taken reasonable steps to ventilate the Property by opening windows and using trickle vents;
 - f. The Report does not address the use of the dehumidifiers by the Applicant, nor provide a basis for disregarding their continuous use by the Applicant;
 - g. The Report recommends upgrading the extractor fan in the kitchen of the Property, but does not explain what that upgrade entails.
4. In the circumstances, the Tribunal considers that the Bromac Limited Report inadequately addresses the cause of condensation, dampness and mould. The Bromac Limited Report is insufficient to meet the requirements of the RSEO.
5. In terms of section 25 of the Housing (Scotland) Act 2006:-

“25 Variation and revocation of repairing standard enforcement orders

- (1) Where the First-tier Tribunal has made a repairing standard enforcement order, it may, at any time—
 - (a) vary the order in such manner as it considers reasonable, or
 - (b) where it considers that the work required by the order is no longer necessary, revoke it.
- (2) Where subsection (3) applies, the First-tier Tribunal must vary the repairing standard enforcement order in question—
 - (a) so as to extend, or further extend, the period within which the work required by the order must be completed, and
 - (b) in such other manner as it thinks fit.
- (3) This subsection applies where—
 - (a) the First-tier Tribunal considers, on the submission of the landlord or otherwise, that the work required by a repairing standard enforcement order has not been, or will not be, completed during the period within which the order requires the work to be completed, and

- (b) the First-tier Tribunal —
 - (i) considers that satisfactory progress has been made in carrying out the work required, or
 - (ii) has received a written undertaking from the landlord stating that the work required will be completed by a later date which the First-tier Tribunal consider satisfactory.
 - (4) References in this Act (including this section) to a repairing standard enforcement order or to work required by such an order are, where the order has been varied under this section, to be treated as references to the order as so varied or, as the case may be, to work required by the order as so varied.”
6. For the reasons set out above, the Tribunal is satisfied that the work required by the RSEO has not been completed. However, the Tribunal also considers that satisfactory progress has been made in carrying out the work required in that the Respondent has at least made attempts to obtain a specialist report that meets the requirements of the RSEO.
7. In the circumstances, the Tribunal will vary the RSEO to require a report to be given in that addresses the lack of specification given in the Bromac Limited Report.

Right of Appeal

In terms of Section 46 of the Tribunal (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.

A Upton

04.11.2025

Legal Member/Chair

Date