



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Sections 26 and 27 of the Housing (Scotland) Act 2006 (“the 2006 Act”)

Chamber ref: FTS/HPC/RT/24/2237

Re: Property at First Floor Flat Left, Old Police Station, Nursery Lane, Aberdeenshire, Inverurie, AB51 3XP

Parties:

Mr Adrian Ogg, Ramana, Barthol Chapel, Aberdeen, Inverurie, AB51 8TB (“The Landlord”)

Aberdeenshire Council-Infrastructure Services (Housing), Gordon House, Blackhall Road, Inverurie, Aberdeenshire, AB51 3WA (“the Third Party Applicant”)

Tribunal Members:

Ruth O'Hare (Legal Member) and Angus Anderson (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 purpose of determining whether the Landlord has complied with the Repairing Standard Enforcement Order (“RSEO”) dated 1 July 2025, made a determination under section 26(1) of the 2006 Act that the Landlord has failed to comply.

The Tribunal therefore ordered that notice be given to the local authority under section 26(2)(a) of the 2006 Act.

Background

- 1 This is an application under rule 48 of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure 2017 (“the Rules”), in terms of which the Third Party Applicant sought a determination that the Landlord had failed to comply with the duties imposed by section 14(1)(b) of the Act.

- 2 On 1 July 2025 the Tribunal made an RSEO requiring the Landlord to:-
- (i) Submit a valid and up to date gas safety certificate in respect of the property as required by the Gas Safety (Installation and Use) Regulations 1998 to the Tribunal;
 - (ii) Submit a valid and up to date electrical installation condition report (“EICR”) in respect of the property as required by sections 19A and 19B of the Housing (Scotland) Act 2006 to the Tribunal;
 - (iii) Submit evidence of up to date portable appliance testing of the cooker, washing machine, and fridge freezer, to the Tribunal;
 - (iv) Submit evidence showing the installation of smoke detectors, heat detectors and carbon monoxide detectors within the property in compliance with the requirements set out in the Housing (Scotland) Act 2006; and
 - (v) Instruct a report from a damp and condensation specialist with specific reference to the alleged damp in the sitting room, and the mould growth in the bedrooms, submit the report to the Tribunal for consideration, and carry out any works thereafter as directed by the Tribunal. The report should identify the cause of any water ingress or condensation, and include remedial recommendations, where appropriate.
- 3 The RSEO was issued to the Landlord on 7 July 2025. It gave the Landlord a period of one month to complete the actions required.
- 4 On 30 July 2025 the Tribunal received an email from the Landlord requesting more time as he had been *“let down by work people in order to get the certification you have requested looking to get another month as being mucked about a lot”*. The Landlord confirmed that he would send in all of the documents once in receipt of these.
- 5 On 6 August 2025 the Tribunal received a further email from the Landlord which referred to a fire alarm certificate and *“mold inspection report”*. The only attachment to the email was a fire detection and alarm system commissioning certificate from Fraser Fire and Security dated 14 January 2025.
- 6 The Tribunal subsequently determined to hold a hearing to seek further information from the parties in order to consider the Landlord’s compliance with the RSEO. The hearing was scheduled to take place by teleconference on 30 September 2025. The Tribunal gave notice of the hearing to the parties by email on 16 September 2025.

The hearing

- 7 The hearing took place on 30 September 2025 by teleconference. The Third Party Applicant was represented by Ms Emma Bain. The Landlord did not join

the call, nor was he represented. The Tribunal delayed the start of the hearing for a short period before determining to proceed in the Landlord's absence.

- 8 Ms Bain advised that she had not had any recent contact with the Landlord and had not been provided with any documents or updates. The last communication had been with the Landlord's wife back in March 2023. Ms Bain confirmed that council tax records showed new occupants in the property from 1 April 2025. Neighbours had told Ms Bain that they had seen contractors attempting to gain access to the property without success. It appeared that the occupants were not allowing access. Ms Bain felt that Landlord may have made some efforts to carry out the required works under the RSEO but could have had some issues with gaining entry.

Reasons for decision

- 9 The Tribunal considered the evidence from the hearing and the documentary evidence before it in reaching its decision. The Tribunal was satisfied that it had sufficient information upon which to determine whether the Landlord had complied with the RSEO.
- 10 In terms of section 26(1) of the 2006 Act, the Tribunal must decide whether the Landlord has complied with the RSEO. The Tribunal concluded that he has not.
- 11 The RSEO requires the Landlord to produce various reports and certification. As at the date of this decision, all that has been received from the Landlord is a fire detection and alarm commissioning certificate which lacks sufficient detail to establish whether the fire, smoke and carbon monoxide detection installed is compliant with the requirements of the 2006 Act. The Tribunal was unable to obtain further detail on this from the Landlord due to his failure to attend the hearing. The Tribunal was also unable to establish whether the Landlord has in fact instructed a damp and condensation report, as referenced in his email of 6 August 2025 but not produced. The Tribunal therefore concluded that the Landlord has failed to comply with the RSEO.
- 12 The Tribunal had regard to section 25(1) of the 2006 Act which states “(1) *The first-tier tribunal which made a repairing standard enforcement order may, at any time (a) vary the order in such manner as they consider reasonable, or (b) where they consider that the work required by the order is no longer necessary, revoke it.*” With regard to section 25(1)(b) the Tribunal gave consideration to whether it should revoke the RSEO. The Tribunal concluded that the works remained necessary for the reasons outlined in its decision of 1 July 2025 and therefore it would not be appropriate to revoke the RSEO at this time.
- 13 The Tribunal then considered section 25(1)(a), and whether it should vary the RSEO and allow further time for the Landlord to comply. The Tribunal could not ignore the fact that the Landlord had failed to adequately address what were serious and concerning matters of health and safety, particularly the lack of a gas safety certificate and electrical installation condition report. These were not new issues. The Third Party Applicant had previously requested these from the

Landlord prior to making the application. The Tribunal had, prior to making the RSEO, required the Landlord to provide all of the documents under Direction. The Landlord has now had over three months from notice of the RSEO to produce these. He has failed to provide any reasonable explanation as to why he has not done so, nor allowed access to the Tribunal to inspect the property.

- 14 The Tribunal also took into account the history of this application, as narrated in the Tribunal's decision of 1 July 2025. The Tribunal has made attempts to inspect the property on three occasions. The Landlord has failed to provide access. The Tribunal has held three hearings over the course of these proceedings. The Landlord has failed to attend on each occasion. The Landlord has previously stated that the property is no longer let, however the evidence from the Third Party Applicant regarding a change of occupants on council tax records together with reports from neighbours suggests otherwise. The Landlord's actions demonstrate a complete lack of respect for the Tribunal's functions. The Tribunal considered therefore that it could reasonably conclude that the Landlord has no intention of making any serious attempts to comply with the RSEO.
- 15 The Tribunal was conscious that the consequence of a decision by it that a Landlord has failed to comply with the RSEO could lead to criminal prosecution. However, the Tribunal could identify no reasonable excuse on the Landlord's part. Therefore, the Tribunal determined in terms of section 26(1) of the 2006 Act that the Landlord has failed to comply with the RSEO.
- 16 The Tribunal further determined in terms of section 26(2)(a) of the 2006 Act that notice of the decision be served on the local authority.

R O'Hare

Chairperson
8 October 2025