

# **Housing and Property Chamber**

## **First-tier Tribunal for Scotland**

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

**Statement of Decision: Housing (Scotland) Act 2006 Section 25**

**Chamber Ref: FTS/HPC/RP/24/4204**

**Property: 26 New Road, Kennoway, Leven, KY8 5JR ('The House')**

**Title reference: FFE64995**

**The Parties: -**

**William Mitchell, The Elms, The Causeway, Kennoway, Leven ('the landlord')**

**Rosemary Morris, 26 New Road, Kennoway, Leven, KY8 5JR ("the tenant")**

### **Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the tribunal') having made such enquiries as are fit for the purposes of determining whether the landlord has complied with the Repairing Standard Enforcement Order dated 11 June 2025 determined to extend the period for the landlord to comply with the RSEO until 18 December 2025.**

The decision was unanimous.

The Tribunal consisted of: -

Mary-Claire Kelly, Chairing and Legal Member

Greig Adams , Ordinary Member (surveyor)

## Background

1. By application dated 7 September 2024, the tenant applied to the First-tier Tribunal (Housing and Property Chamber) for a determination of whether the landlord had failed to comply with the duties imposed by section 14(1)(b) of the Housing (Scotland) Act 2006.
2. An inspection and hearing took place on 6 June 2025. The tenant and her son Martin Ryder were in attendance. The landlord's solicitor, Mr Macdonald attended the hearing on his behalf.
3. Following the hearing the Tribunal issued a Repairing Standard Enforcement Order (RSEO) in respect of the application. The RSEO required the landlord to carry out the following works within 6 weeks of the date of service of the RSEO:
  - 1) *Instruct a suitably qualified and SELECT, NAPIT or NICEIC registered electrician (i) to carry out a full inspection of the electrical installation throughout the house, the purpose of which inspection is to ensure that the electrical installations are safe and fit for purpose (ii) to repair, replace or renew any parts which require to be repaired, replaced or renewed, including the defective double socket in the kitchen to ensure that the installation is fully functioning and meets current regulatory standards and (iii) thereafter to issue a complete and compliant electrical installation condition report ("EICR") in accordance with Scottish Government statutory guidance on electrical installations and appliances in private rented property and exhibit the EICR to the Tribunal. This should include testing and certification of any portable electrical appliances provided by the Landlord.*
  - 2) *Instruct a suitably qualified and Gas Safe registered engineer to carry out a certificated gas safety check on the gas heating system and any other gas appliances in the property and provide a copy of the gas safety record to the Tribunal.*
  - 3) *Produce evidence or certification to demonstrate that the smoke and heat detectors in the property are fixed to the ceiling and interlinked. The evidence should also demonstrate that alarms are located in the living room, hallway, upper landing and kitchen in the property in compliance with Scottish government regulations on fire and smoke alarms.*
  - 4) *Produce a legionella risk assessment for the house in accordance with the Scottish Government's publication "Repairing Standard: statutory guidance for private landlords", Annex D1 (D.28-D.35)*
  - 5) *Carry out such repairs as are necessary to ensure the toilet in the en-suite shower room is in a reasonable state of repair and proper working order.*
  - 6) *Carry out such repairs as are necessary to ensure the sealant surrounding the shower is in a reasonable state of repair and proper working order or replace the door and lock.*

### **Re-inspection and hearing**

4. A re-inspection took place at 10am on 30 October 2025. A teleconference hearing took place at 11.30am on the same day. The tenant attended with her son Martin Ryder who was acting as her representative. The landlord's solicitor, Mr Macdonald attended on his behalf.
5. Prior to the re-inspection Mr Ryder had emailed the Tribunal with an update regarding repairs that had been carried out. He stated that the only outstanding issue was the electrical socket under the counter in the kitchen. On the day of the re-inspection Mr Ryder provided the Tribunal with a Gas Safety Certificate dated 23 June 2025 for the property.
6. Mr Macdonald submitted an EICR for the property dated 17 June 2025 during the re-inspection.
7. At the re-inspection and hearing the Tribunal examined each of the repairs set out in the RSEO.
8. It was observed that repairs had been carried out to the toilet and the sealant around the shower in the ensuite. The tenant confirmed that the toilet was now in proper working order and that the sealant had resolved any issue of water leaking from the shower.
9. The Tribunal noted that the gas safety record produced by Mr Ryder dated 23 June 2025 had been completed by a registered Gas Safe engineer.
10. The Tribunal found that smoke and heat detectors had been installed in the hall, living room and kitchen. The detectors were checked during the re-inspection and were interlinked and functioning.
11. The Tribunal noted that repairs had been carried out to the electrical installations in the property however the EICR that had been produced stated that the overall assessment of the installation was unsatisfactory. It was observed that the socket under the kitchen in the counter was not functioning properly. The tenant stated that they were concerned about the safety of the socket and did not use it. The Tribunal also observed that the EICR specified that there was no Residual Current Device ("RCD") protection on circuits 1-4.
12. Mr Macdonald referred to the fact that the EICR may have pre-dated some of the electrical repairs being carried out and did not specify any code C1 or C2

issues. He sought a variation of the RSEO to allow time for further investigation.

13. In relation to the issue of legionella testing, Mr Ryder stated that he recalled that the landlord had attended the property to carry out a legionella test on the water. This had been a relatively straightforward test however he was not provided with a copy of the results.

### **Reasons for decision**

14. Based on the written documents produced, the re-inspection and hearing the Tribunal was satisfied that the landlord had complied with paragraphs 2,3,5 and 6 of the RSEO.
15. It was not disputed that works had been carried out to the electrical installations however there was an outstanding issue with the functioning of the socket under the counter. The EICR that had been produced did not comply with requirements of the RSEO as it stated that the installations were unsatisfactory and noted a lack of RCD protection .
16. It was not disputed that the landlord had tested the water in the property for legionella however as no risk assessment had been submitted to the Tribunal paragraph 4 of the RSEO remained outstanding, .
17. The Tribunal considered a period of 5 weeks should be sufficient for the required works to be completed.

### **Decision**

The tribunal determined to extend the period for the landlord to comply with the RSEO to 18 December 2025.

### **Right of Appeal**

**A landlord, tenant or third-party applicant 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.

MC Kelly

Legal Member/Chairperson