

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

Tribunal Ref: FTS/HPC/RP/24/4421

Property: Flat 2/2, 35 Gogar Street, Glasgow, G33 2JQ

Land Certificate Title Number: GLA103862

Parties

The Applicant: Mr Estsham Alam, residing at Flat 2/2, 35 Gogar Street, Glasgow, G33 2JQ (Former Tenant)

The Landlord: NS5 Ltd, 7 Bell Yard, London, WC2A 2JR

Tribunal Members: Martin J. McAllister (Legal Member) and Kingsley Bruce (Ordinary / Surveyor Member)

Decision

The tribunal determined:

(One) that the Landlord had failed to comply with a repairing standard enforcement order (RSEO) dated 15 July 2025 and that a notice of failure be served on the local authority (Section 26 of the Housing (Scotland) Act 2006 (the 2006 Act)

(Two) that a Direction be made requiring the Landlord to provide information with regard to any current tenancy of the Property.

Background

1. The Property is owned by a limited company, NS5 Ltd.
2. The Property was let to the Applicant who submitted an application stating that the Property did not meet the repairing standard set out Section 13 of the 2006 Act.
3. The Property was inspected on 23 May 2025 by the then allocated members of the First-tier Tribunal: Mr Crawford and Mr Bruce.

4. A Hearing was held after the inspection and it was determined that a repairing standard enforcement order be made in the following terms:

4.1 Repair, or if necessary replace, the gas cooker at the Property and complete any necessary associated works, said works to be carried out by a suitably qualified Gas Safe Engineer.

4.2 Instruct a suitably qualified Gas Safe Engineer to inspect, test and undertake such repairs as may be necessary to ensure that the heating system is in full working order, including replacement of missing Thermostatic Radiator Valves (TRVs).

4.3 Instruct a suitably qualified electrician, who should be a member of Select, NECEIC or other approved body, to undertake inspection and testing of the electrical installation at the Property and to provide an Electrical Inspection Condition Report (EICR), completing any works found to be necessary.

4.5 Repair, or if necessary replace, defective shower screen/seals/tiling around the bath ensuring that the installation is watertight, undertaking associated repairs including repair or replacement of damaged or defective flooring in the bath area, including re-instatement of floor coverings, to a satisfactory standard.

4.6 Undertake repairs to all windows as required including servicing, adjustment or replacement of closing mechanisms, replacement of panes affected by condensation between glazing, and ensure windows are in working order.

The Landlord was required to complete the works by 27 September 2025.

5. On 25 August 2025, the Applicant intimated that he had left the Property and that the tenancy had therefore come to an end.
6. Mr McAllister was allocated to be the Legal Member for the application in place of Mr Crawford.
7. The members of the tribunal arranged to reinspect the Property on 15 December 2025.

The Inspection on 15 December 2025

8. The Legal and Ordinary member arrived at the Property at 10 am No one was present to give access despite the members of the tribunal waiting until 10.15 am.
9. It was noted that windows in the Property were open and it appeared that a central heating boiler was in operation.

Determination

10. It was not possible for the tribunal to inspect the Property because they were not given access. Notwithstanding that, it was evident that the RSEO had not been complied with since an EICR had not been submitted to the Tribunal. No evidence had been submitted on whether other aspects of the EICR had been complied with.

Determination

11. The tribunal had regard to Section 26 (2) of the 2006 Act:

Where the First-tier Tribunal decides that a landlord has failed to comply with the repairing standard enforcement order, the First-tier Tribunal must-

- (a) serve notice of the failure on the local authority, and*
- (b) decide whether to make a rent relief order.*

12. Non- production of the E.I.C.R was evidence that the Landlord had not complied with that part of the RSEO. The tribunal determined to serve notice of the failure to comply on the local authority.

13. The tribunal was concerned that the Property appeared to be occupied at the time of the reinspection. In terms of Section 28 (5) of the 2006 Act a property subject to a RSEO should not be relet: *"A landlord commits an offence if the landlord enters into a tenancy or occupancy agreement in relation to the house at any time during which a repairing standard enforcement order has effect in relation to the house."* The tribunal determined that a Direction should be made requiring the Landlord to produce information on any current tenancy of the Property.

14. The tribunal deferred consideration of whether to make a rent relief order.

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.

Martin. J. Mcallister

Martin J. McAllister,
Solicitor, legal member of
Tribunal.
29 December 2025