

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Decision: Section 60 (5) (b) of the Housing (Scotland) Act 2006 (“the 2006 Act”)

Chamber Ref: FTS/HPC/RP/22/0875

83 Ferguson Way, Airdrie, Lanarkshire, ML6 6EX registered in the Land Register of Scotland under Title Reference LAN165295 (“the Property”)

The Parties:-

Mrs Donna-Leona O’Donnell, 83 Ferguson Way, Airdrie, Lanarkshire, ML6 6EX (“the Former Tenant” and “the Applicant”)

Mr Fergus McCrossan, 93 Drumlegagh Road South, Omagh, Northern Ireland, BT78 4TW (“the Landlord” and “the Respondent”)

Tribunal Members:

Mr Martin McAllister, Solicitor (Legal Member) and Mr Nick Allan, Chartered Surveyor (Ordinary Member)

Decision

The tribunal determined to certify that the work required by a repairing standard order (RSEO), dated 7 June 2022, and issued in terms of Section 24 (2) of the 2006 Act, has been complied with.

Background

1. By application dated 24th March 2022, the 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 (1) of the 2006 Act (“the 2006 Act.”).
2. The Applicant and Respondent were parties to a short assured tenancy in respect of the Property. It was dated 26th October 2016. The term of the tenancy

was for a period of six months commencing on 26th November 2016 and thereafter on a month to month basis until terminated by either party.

Repairing Standard Enforcement Order

3. Following upon an inspection of the Property by the members on 1st June 2022 and a Hearing on 7th June 2022, a repairing standard enforcement order (RSEO) was made in the following terms:

The Landlord was required to:

- 3.1 produce to the Tribunal 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 suitable 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 have no recommendations in the C1 or C2 category. PAT testing documentation for any portable appliances supplied by the Landlord should also be produced which has been prepared by a similarly qualified and accredited electrician.**
 - 3.2 produce to the Tribunal a current Gas Safety Certificate for the Property prepared by a suitably qualified gas engineer registered in the Gas Safe Register.**
 - 3.3 to repair the hole in the kitchen ceiling and make good the décor as required.**
 - 3.4 to repair or replace the units and worktop in the kitchen including replacement of inadequate sealant.**
 - 3.5 to install interlinked heat and smoke detectors to comply with current standards.**
 - 3.6 to provide a carbon monoxide detector.**
 - 3.7 to repair the floor tiles and the threshold plate in the bathroom so as to eradicate a trip hazard, and to allow the bathroom door to open and close correctly.**
4. **The Landlord was required to complete the works required by the RSEO and to produce to the Tribunal the gas safety certificate and electrical installation condition report before 22nd July 2022.**
 5. The members of the tribunal reinspected the Property on 5th September 2022 and determined that the RSEO had not been complied with.

Determination

6. 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.

7. The tribunal served the appropriate notice on the local authority and determined that it would be appropriate to make a rent relief order. The amount by which the rent due under the tenancy is reduced is a matter of discretion and the tribunal determined that a rent relief order of 50% be made to reflect the seriousness and significant health and safety considerations of the landlord's failure to comply with the RSEO. This reduced the rent payable under the tenancy by 50% of the rent which would, but for the order, be payable.

Re-Inspection 13 March 2026

8. The members of the tribunal inspected the Property on 13 March and access was provided by Mr Stefan Smyth of the Property Bureau.
9. Prior to the re-inspection, the Tribunal had been made aware that the tenancy with the Former Tenant had terminated. Mr Smyth confirmed that us company had quite recently taken over management of the Property and that he had not known about the existence of the RSEO.
10. Mr Smyth confirmed that the Former Tenant had died.
11. It was obvious to the members of the tribunal that the Property was occupied. Mr Smyth confirmed that the Property was subject to a tenancy.
12. A copy of the re-inspection report and photographic schedule prepared by the ordinary member is attached to this decision and is referred to for its terms.
13. The tribunal was satisfied that items 3.3,3.4,3.5,3.6 and 3.7 had been completed to a satisfactory standard.
14. No EICR or Gas Safety Certificate had been produced by the Respondent. Mr Smyth said that he had current copies of these in his office and, subsequent to the re-inspection, he submitted an EICR dated 1 February 2026 and a Gas Safety Certificate dated 17 December 2025. The tribunal determined that they were in acceptable terms.

Discussion and Determination

15. The tribunal determined that, based on its reinspection and the information subsequently provided, the RSEO had been complied with.

NOTE

16. There were matters not relevant to the RSEO which the tribunal considered that a responsible landlord would deal with and, if not, they may form part of a future application by a tenant:

16.1 The roof valley channels and guttering are blocked by vegetation.

16.2 Damaged brickwork below the back door provides a possible access point for rodents.

16.3 The light fitting in the bathroom is inappropriate, given its type for the location where it is installed.

17. Mr Smyth said that he would ask the Respondent to deal with these matters.

Offences under Housing (Scotland) Act 2006

18. The tribunal noted that the Respondent had committed an offence under section 28(1) of the 2006 Act by failing to comply with a RSEO.

19. The tribunal noted that the respondent had also committed an offence under section 28(5) of the 2006 Act by entering into a tenancy agreement when a RSEO had effect in relation to the Property.

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 McAllister

Martin J. McAllister,
Legal Member

31 March 2026