

Housing and Property Chamber
First-tier Tribunal for Scotland



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

Statement of Decision: Housing (Scotland) Act 2006 Section 24

Chamber Ref: FTS/HPC/RP/25/0421

Property: 69 Mahon Court, Moodiesburn, G69 0QF ('The House')

The Parties: -

Rebecca Chester, 16 Askew Drive, Spencers Wood, Reading, Berkshire, RG7 1HG ("the landlord')

Brian Nugent, 69 Mahon Court, Moodiesburn, G69 OHF ("the tenant")

Decision

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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 ("RSEO") dated 24 July 2025 amends the RSEO to remove repairs 1, 2, and 5 and extends the period for compliance by 8 weeks.

The decision was unanimous.

The Tribunal consisted of: -

Mary-Claire Kelly, Chairing and Legal Member

Kingsley Bruce , Ordinary Member (surveyor)

Background

1. By application accepted on 15 April 2025, 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 Act.
2. The application stated the landlord had failed to comply with the duty to ensure that the house meets the repairing standard and that the landlord had failed to ensure compliance with the section 13(1) of the Act.
3. An inspection and hearing took place on 24 July 2025. The former tenant, Mr Nugent was in attendance at the inspection with Nicola Barclay, Manager of Disability Support Service, North Lanarkshire Council was provided support to the tenant. A hybrid hearing took place at Glasgow Tribunals Centre at 11.45 George House. Edinburgh at 11.45 am. The former tenant attended in person with Ms Barclay. The landlord attended via teleconference.
4. 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 8 weeks of the date of service of the RSEO:
 - 1) *Carry out such repairs as are necessary to ensure the internal doors are fully functioning, capable of remaining closed and in a reasonable state of repair or replaced.*
 - 2) *Carry out such repairs as are necessary to ensure the front door is fully functioning, lockable and in a reasonable state of repair or replaced.*
 - 3) *Carry out such repairs as are required to ensure the electric heaters in the living room, hall and bedroom are in proper working order or replaced. Evidence or certification to show that the storage heaters are in proper working order should be produced*
 - 4) *Carry out such works as are required to ensure that the hot water tap in the kitchen is in a reasonable state of repair and proper working order.*
 - 5) *Carry out such repairs as are required to ensure that the communal back door is secure and that the tenant is provided with a key to allow access.*
5. A copy of the Tribunal's decision was sent to the parties on 19 August 2025.

The tenant sent emails to the Tribunal on 19 and 25 August 2025 and 5 September 2025 seeking permission to appeal the Tribunal's decision. The Tribunal refused permission to appeal on 22 September 2025. A statement of decision setting out the reasons for the decision was issued to parties.

6. On 8 September 2025 the landlord emailed the Tribunal seeking to appeal the Tribunal's decision. The Tribunal requested that the landlord specify the points of law on which they sought to appeal. The landlord responded on 26 September 2025 setting out their grounds for appeal.
7. The Tribunal refused permission to appeal on 20 October 2026. A statement of decision setting out the reasons for the decision was issued to parties.
8. A re-inspection took place on 9 February 2026. The former tenant was in attendance with Nicola Barclay.
9. A reinspection report setting out the Tribunal's observations at the re-inspection was issued to the parties. Parties were invited to provide written submissions setting out their position on the findings in the re-inspection report within 14 days. Parties were also asked for their views on whether a hearing was required.
10. On 6 March 2026 the landlord submitted detailed written submissions and the following additional documents:
 - Photographs of the property
 - Text correspondence with the former tenant regarding his moving out of the tenancy
 - Letter signed by the residents of 65, 67, 68, 70 and 72 Mahon Court
 - Invoice from Caledonia Plumbing and heating
 - Correspondence from Inspire Electrics dated 2 March 2026
 - Rent statement
 - Written submissions

11. On 27 March 2026 the former tenant confirmed that he had secured a new tenancy. The landlord confirmed that the former tenant no longer resides in the property.

Summary of the issues

12. The issue to be determined is whether the landlord there has been a failure to comply with the RSEO in terms of section 26 of the Act.

Reasons for the Decision

13. The Tribunal determined the application having regard to their findings as set out in the re-inspection report and the written submissions from the landlord. The Tribunal considered each of the items in the RSEO in turn.

14. Internal doors: As noted at the re-inspection the internal doors appeared to have been repaired and were in proper working order. The Tribunal determined that the landlord had complied with item 1 in the RSEO.

15. Front door: As noted at the re-inspection the locks to the front door had been replaced. The door was found to be functioning and in proper working order. The Tribunal determined that the landlord had complied with item 2 in the RSEO.

16. Electric heaters: It was observed at the re-inspection that additional electric heaters had been installed in the hallway and living room. The original heaters remained and there was no evidence of any repairs relating to the original heaters having been carried out. The new heaters were not hard wired and appeared to be plugged into the wall.

17. In their written submissions the landlord stated that they had instructed the electrician to install hard wired heaters however, the former tenant had prevented the electrician from installing the heaters. A letter had been submitted from the electrician. He stated that the tenant had been hostile and had intervened to prevent the heaters being hard wired.

18. The Tribunal accepted the evidence that had been submitted in relation to the installation issues. The Tribunal determined that in the circumstances it was reasonable to vary the RSEO to allow for additional time for the work to be completed. The Tribunal took into account that the property was now vacant which should allow for works to be completed without delay or interference.

19. Kitchen tap: At the reinspection it was observed that there did not appear to have been repairs carried out to address the rate and supply of hot water in the kitchen. It was observed that the flow from the kitchen sink was less than optimal. In their written submissions the landlord states that the low rate of flow in the kitchen tap is attributable to the distance from the gravity operated cylinder. The landlord's submissions state:

The only way to combat it is to change the cylinder to a pressurised one and then take out the floors, kitchen and bathroom and replace all of the gravity fed pipework in the property to pressurised pipework. If you don't do that there could be problems with the pressure of the water making the connections come loose on gravity pipework. It's not meant to have pressurised water running through it. The tenant would have needed to be rehoused as these are major renovation works that could run into tens of thousands of pounds. Fortic cylinders are legal. Gravity systems are legal. Every flat in Mahon Court was built with gravity systems and pipework. Plenty of flats are being built with them today. They are in line with building regulations. Letter and explanation from Caledonian Plumbers attached.

20. An invoice from Caledonian Plumbers dated 9 September 2025 had been submitted. The invoice stated that the issue with water flow was due to the construction of the property and the location of the kitchen tap some distance from the boiler. The plumber stated that a booster pump was not compatible with the tank and that the option of replacing the cylinder and all pipework throughout the property would require significant disruption for "minimum results".

21. A letter had been submitted signed by residents of 5 other flats in the block.

The letter stated:

“We would like to address the ongoing issue of low water pressure affecting all residents. The problem is a structural concern inherent to the building’s design and is not isolated to any single apartment.”

22. The Tribunal had regard to Scottish Government guidance on the Repairing Standard, Annex D1 (installations for the supply of water). The statutory guidance states:

an adequate supply of water means that the tenant has access to a reasonable quantity of water within a reasonable time. A cold water supply must be sufficient to provide seven litres of cold water per minute at a reasonable pressure. The principle area in which the adequacy of supply is at issue is in relation to the supply of hot water for washing and cleaning. The water supply must be sufficient to allow a tenant to obtain:

- *Where the house has a shower, a continuous supply of seven litres of hot water per minute for at least 10 minutes;*
- *Where the house has a bath, a continuous supply of seven litres of hot water per minute in a sufficient quantity to fill the bath; and*
- *Where the supply is from a hot water tank, capacity to re-heat the water in the tank to provide hot water for a shower or bath, within a period of one hour.*

23. The Tribunal determined that the hot water supply in the bathroom was adequate. The cold water supply in the kitchen was sufficient. Whilst the hot water supply in the kitchen was affected by low pressure there was a continuous supply. The information from the plumber and the other residents showed that there was a wider issue with water pressure throughout the property. The Tribunal noted that the letter from Caledonian Plumbing states that a booster pump is not compatible with the tank and that installing an unvented cylinder or relocating the cylinder would involve disruptive works.

24. The Tribunal considers that the landlord may wish to explore alternative options (for example a point of use hot water heater) to remedy the low flow from the hot water kitchen tap to ensure an adequate flow of hot water. The Tribunal determined that in the circumstances it was reasonable to vary the RSEO to allow for additional time for the landlord to consider alternative options to ensure an adequate flow of hot water in the kitchen.
- 25. Communal back door:** At the reinspection it was observed that the communal back door was open and unlocked. The former tenant stated that no key had been provided to him.
26. The landlord submitted a letter signed by residents of 5 other flats within the block. The letter stated that the neighbours did not approve of the request to change the back door lock as the door is used frequently by elderly residents and their care givers. The residents stated that the door required to be kept open due to the constant strong smell of marijuana emanating from the flat.
27. The Tribunal determined that due to the lack of consent from other owners to the repair to the communal door, the exception to the repairing standard contained in section 16(4) and (5) applied..

Section 16

(4) A landlord is not to be treated as having failed to comply with the duty imposed by section 14(1) where the purported failure occurred only because the landlord lacked necessary rights (of access or otherwise) despite having taken reasonable steps for the purposes of acquiring those rights.

(5) For the purpose of subsection (4), in relation to any work intended to be carried out to parts owned in common with other owners but where a majority of the owners has not consented to the intended work, a landlord is to be treated as lacking necessary rights.

Accordingly the Tribunal finds no breach of the repairing standard in relation to this item.

28. The Tribunal determined to vary the RSEO to show the outstanding issue of repairs to the electric heaters. The Tribunal extends the time available to show that the heaters in the living room, living room, hall and bedroom are in proper working order or replaced be 8 weeks. Evidence or certification to show that the storage heaters are in proper working and comply with Scottish government guidance on the repairing standard should be produced.

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.

M-C Kelly

Chairperson:

Date: 12 May 2026