

# Housing and Property Chamber

## First-tier Tribunal for Scotland

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

### **Decision with statement of reasons in respect of an application under Section 25 (1)(b) of the Housing (Scotland) Act 2006 (“the Act”)**

**Chamber Reference number:** FTC/HPC/RP/24/2112

#### **Parties:**

Mr. James McEwan residing at 29, Willowbank Gardens, Kirkintilloch, G66 3AN (“the Landlord”) per his agents, Jones Whyte, solicitors, Glasgow.

**Property:** Upper flat at 32, Cumbernauld Road, Moodiesburn, G69 0AA being the subjects registered under title sheet number GLA20931

#### **Tribunal Members**

Karen Moore (Chairperson) and Nick Allan (Surveyor and Ordinary Member)

#### **Background**

1. By application received between 9 May 2024 and 28 May 2024 (“the Application”), the then tenant applied to the First-tier Tribunal for Scotland (Housing & Property Chamber) for a determination that the Landlord had failed to comply with the duty imposed on him by Section 14(1)(b) of the Housing (Scotland) Act 2006 (“the Act”) in respect that the Property does not meet the Repairing Standard in respect of Sections 13 (1) (a), 13 (1) (b) and 13(1) (h) of the Act. Specifically, the Application stated that the Landlord had failed to comply with his duty to ensure that the house meets the repairing standard as there is dampness, mould and water ingress in the living room and lower bedroom of the Property.
2. The Application was referred to the Tribunal, and, an Inspection and Hearing were held on 22 October 2024 at 10.00 and 11.45, respectively.

## **Inspections and Hearings**

3. The Inspection and Hearing took place on 22 October 2024 after which the Tribunal adjourned the matter for the Landlord to complete works which were in progress.
4. The adjourned Inspection and Hearing took place on 27 February 2025 at 10.00 and 11.45, respectively.
5. The outcome of the adjourned Inspection and Hearing was that the Tribunal made the following Repairing Standard Enforcement Order (RSEO): *“The Landlord must on or before 20 June 2025 carry out all of the following: 1. Carry out all works necessary to bring the structure and exterior of the house (including drains, gutters and external pipes) into a reasonable state of repair and on proper working order and to ensure the Property is dampness free, wind and watertight and in all other aspects reasonably fit for human habitation. 2. Carry out all decoration and incidental works occasioned by the works required to comply with this Order to leave the Property in the condition required by the Repairing Standard.”*
6. A Re-inspection took place on 28 August 2025, prior to which the Landlord submitted documentary evidence in support of his assertion that the works required by the RSEO had been completed. The Landlord submitted further documentation following the date of the Re-inspection. The outcome of the Re-inspection and the Tribunal’s consideration of the Landlord’s submissions was that the Tribunal made a finding of failure to comply with the RSEO and made a rent relief order.

## **Subsequent proceedings.**

7. Following the Tribunal’s finding of failure to comply with the RSEO and making of a rent relief order, the Landlord’s agents lodged a request for a review of those determinations and lodged an application for permission to appeal, both of which were refused by the Tribunal. Further documentation accompanied the review request and so the Tribunal asked that the tribunal chamber arrange a further Re-inspection.
8. By email dated 21 May 2026, the then tenant advised that she had vacated the Property. Accordingly, she is no longer a party to the proceedings.

### **Issues for the Tribunal**

9. In these proceedings, the Tribunal's statutory function in terms of Section 25 (1) (b) of the Act is where it has made a repairing standard enforcement order, " it may, at any time (b)where it considers that the work required by the order is no longer necessary, revoke it." Accordingly, the issue to be determined by the Tribunal is whether or not the work required by the order is no longer necessary.

### **Decision of the Tribunal and reasons for the decision.**

10. The Tribunal had regard to its previous findings, to the further documentation submitted by and on behalf of the Landlord and to the fact that the tenant has vacated the Property, took the view that on the balance of probabilities, the work required by the order is no longer necessary. Accordingly, the Tribunal revoked the RSEO.
11. This decision is unanimous.

### **Appeal**

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.

Signed

Karen Moore, Chairperson

05 June 2026

