



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Sections 26 and 27 of the Housing (Scotland) Act 2006 (“the 2006 Act”)

Reference number: FTS/HPC/RT/25/2115

Re: Property at 11(1F1) Smiths Place, Edinburgh, EH6 8NT (“the Property”)

The Parties:

Mr Rana Imran Ashiq (“the Tenant”)

Mr Shabbir Hussain, 78 Craighall Road, Edinburgh, EH6 4RG (“the Landlord”)

City of Edinburgh Council, Waverley Court, 4 East Market Street, Edinburgh, EH8 8BG (“the Third Party Applicant”)

Tribunal Members: Ruth O’Hare, Legal Member, and Robert Buchan, Ordinary Member

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”), having made such enquiries as it saw fit for the purposes of determining whether the Landlord has complied with the Repairing Standard Enforcement Order (RSEO) dated 14 April 2026, made a determination under section 26(1) of the 2006 Act that the Landlord has failed to comply.

The Tribunal determined to impose a Rent Relief Order of 90% of the monthly rent due and determined that notice of the failure be served on the local authority.

Background

- 1 This is an application under section 22(1A) of the Housing (Scotland) Act 2006 (“the Act”) by the Third Party Applicant for a determination that the Landlord has failed to comply with the duties imposed by Section 14(1)(b) of the Act.
- 2 On 14 April 2026 the Tribunal made an RSEO requiring the Landlord to:-
 - (i) Provide an up to date electrical installation condition report which covers 100% of the electrical installations by a competent electrician, to include the provision of smoke and heat detectors. The provisions relating to competent electricians are contained in the Scottish Government Statutory Guidance on the Repairing Standard.

- (ii) Provide portable appliance testing certificates for the appliances provided by the Landlord.
- (iii) Provide an up to date gas safety certificate from a Gas Safe registered engineer. The certificate should address the working order, condition and safety of any gas installations and gas appliances in the property, and address whether there is a carbon monoxide alarm which complies with statutory guidance.
- (iv) Repair or replace the kitchen window to ensure it can opened and closed safely and is in a reasonable state of repair and in proper working order.
- (v) Replace the sealant around the bath to ensure that it is watertight.
- (vi) Provide invoices and receipts for the works required under paragraphs (i) to (v).

Reference is made to the Tribunal's decision of 14th April 2026 which narrates the reasons for the decision.

The re-inspection

- 3 The Tribunal re-inspected the property on 12th June 2026. The weather was dry. Access was provided by the Tenant, Mr Rana Imran Rashid.
- 4 The Tribunal observed that, other than the installation of some new electrical wiring, no work had been carried out in accordance with the RSEO and no certification, invoices or receipts had been provided by the Landlord.
- 5 A report outlining the findings from the re-inspection was issued to parties on 24 June 2026. The Tribunal advised the parties of their rights to send written representations to the Tribunal in response to the report, and to do so by 8 July 2026. The parties were also given the opportunity to request an oral hearing on the application. No response was received from the parties.

Reasons for Decision

- 6 The Tribunal determined the application having regard to the terms of the application, the findings from the re-inspection and the written representations from the parties. The Tribunal was satisfied having regard to all of the available evidence that it could proceed to a decision in the absence of a hearing and that it would not be contrary to the interests of the parties to do so. Neither party had sought to show good cause as to why an oral hearing may be required.
- 7 In terms of section 26(1) of the 2006 Act the Tribunal must decide whether the Landlord has complied with the RSEO. It was clear to the Tribunal that he has not. Whilst some electrical works have been undertaken in the property, the works required by the RSEO have not been addressed.

- 8 The Tribunal had regard to section 25(1) of the 2006 Act which states:- *“(1) The first-tier tribunal which has made a repairing standard enforcement order may, at any time (a) vary the order in such manner as they consider reasonable, or (b) where they consider that the work required by the order is no longer necessary, revoke it”*. Regarding Section 25(1)(b), the Tribunal gave consideration as to whether the RSEO should be revoked. The Tribunal concluded that the works remain necessary for the reasons outlined in its decision of 14 April 2026 and therefore it would not be appropriate to revoke the RSEO at this time.
- 9 The Tribunal then considered section 25(1)(a), and whether it should vary the RSEO and allow further time for the Landlord to comply. The Landlord had not participated in the application, other than submitting emails in advance of the Tribunal's first inspection of the property. He did not attend that inspection, nor the re-inspection. He did not provide any written representations in response to the re-inspection report, nor did he request an oral hearing. The issues identified by the Tribunal are serious and concerning matters of health and safety, particularly the lack of certification for the gas and electrical installations within the property. The Landlord has failed to provide a reasonable explanation as to why he has not produced the certification required by the RSEO, nor carried out the required works to the kitchen and bathroom. Accordingly, the Tribunal determined that there was no cause shown to vary the RSEO and allow further time for the Landlord to comply.
- 10 The Tribunal is conscious that the consequence of a decision by it that a Landlord has failed to comply with the RSEO could lead to criminal prosecution. However, the Tribunal could identify no reasonable excuse on the Landlord's part as to why the works had not been carried out. Accordingly, the Tribunal determined in terms of section 26(1) of the 2006 Act that the Landlord has failed to comply with the RSEO.
- 11 Having concluded that the Landlord has failed to comply with the RSEO, the Tribunal considered whether to make a rent relief order (“RRO”) under section 27 of the 2006 Act. The Tribunal took the view that, in the circumstances of the application and procedure to date, a RRO is appropriate. The Tribunal has yet to see evidence from the Landlord that the gas and electrical installations and portable appliances within the property are in safe working order, and that there is satisfactory provision for the detection of smoke, heat and carbon monoxide. This was of particular concern to the Tribunal given that the property is currently occupied by the Tenant and his young family. To allow them to reside in a property that cannot currently be considered safe is wholly unreasonable. The fact that the kitchen window cannot be opened safely also poses significant risks to the Tenant and his children. Accordingly, having taken into account the Landlord's failure to take action to ensure the property is a safe environment for the occupants, the Tribunal concluded that a rent relief order at the highest end of the scale is justified. The Tribunal therefore made a RRO for 90% of the rent due.

- 12 The Tribunal further determined in terms of section 26(2)(a) of the 2006 Act that notice of the decision be served on the local authority.
- 13 The decision of the Tribunal was unanimous.

Right of Appeal

In terms of Section 46 of the Tribunal (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 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 determined.

R O'Hare

7 August 2026

Legal Member/Chair

Date