

# Housing and Property Chamber

## First-tier Tribunal for Scotland

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

**Statement of Decision: Housing (Scotland) Act 2006**

**Chamber Ref: FTS/HPC/RT/19/0942**

**Title no/Sasines Description: ANG49875**

**Property Address: 14 Dundonald Street, Dundee DD3 7PW (“the house”)**

**The Parties Rhys Price, 52 Forres Crescent, Dundee DD3 0ER (“the landlord”)**

**Alistair Ramsay, 14 Dundonald Street, Dundee DD3 7BW (“the tenant”)**

**City of Dundee Council, Neighbourhood Services, 3 City Square, Dundee DD3 3BA (“the third party applicant”)**

### **Decision**

1. The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”), having taken account of the findings of the re-inspection report of 7 January 2020 determined that the landlord has failed to comply with the Repairing Standard Enforcement Order dated 18 June 2019 in terms of Section 26(1) of the Housing (Scotland) Act 2006 (“the Act”).
2. The Tribunal must serve notice of the failure on the local authority as required by Section 26(2)(a) of the 2006 Act.
3. The Tribunal decided to make a rent relief order in terms of Section 26(2)(b) of the 2006 Act.
4. The decision of the Tribunal is unanimous.

### **Background**

1. By application dated 21 March 2019 the third party applicant namely Dundee City Council Private Sector Services Unit made an application for a determination of whether the landlord had failed to comply with the duties imposed upon him by Section 14(1)(b) of the 2006 Act.
2. On 4 June 2019 an inspection of the property and thereafter a hearing took place.
3. On 18 June 2019 the Tribunal issued a decision in terms of Section 24(1) of the 2006 Act and made a Repairing Standard Enforcement Order (“RSEO”) requiring the landlord to carry out such work as is necessary for the purposes of ensuring that the property meets the repairing standard in Section 13 of the 2006 Act and that any damage caused by the carrying out of any work in terms of the RSEO is made good. In particular the tribunal required of the landlord the following:-  
To repair or replace the hob to ensure that it is working order and to ensure that there is an

- (i) To repair or replace the hob to ensure that it is working order and to ensure that there is an outer door on the build-under oven.
  - (ii) To ensure the provision of heat and smoke detection within the lounge/kitchen interlinked with the inner hall smoke alarm.
  - (iii) To replace the floor coverings throughout the property to render it reasonably fit for human habitation.
  - (iv) To ensure that the entry door to the property is secure and draught proof and fits into a doorframe and that the main deadlock can be secured from within the property.
  - (v) To repair the hole in the ceiling which appears in the inner hallway and redecorate.
  - (vi) To replace and properly attach the smoke alarm within the hallway and to ensure that it is in working order.
  - (vii) To fit a hatch or cover the upper section of the airing cupboard.
  - (viii) To ensure that the hot water cylinder is in working order.
  - (ix) To repair or replace the bedroom window to ensure that it is capable of being open and closed properly and in all respects in proper working order. Further to ensure that the external security screen is capable of being opened from within the property to allow the window to be opened fully in the event of an emergency.
  - (x) To re-attach the ceiling rose to the ceiling of the property.
  - (xi) To properly replace the sections of plasterboard affixed to the ceiling from being patch repairs.
  - (xii) To ensure that the extractor fan within the bathroom operates.
  - (xiii) To point the stonework around the front elevation of the flat and to deal with the cracks close to the junction of the gable and front elevation.
  - (xiv) To replace missing render with exposed brickwork and timber lintels visible to the east side of the building.
  - (xv) To remove vegetation growth to the masonry at the gable and front elevation.
  - (xvi) To arrange for a check of the electrical apparatus within the property and to provide a copy of the Electrical Installation Condition Report confirming that the installation is "satisfactory" with no C1 or C2 defects.
4. The Tribunal ordered that the work specified in the RSEO had to be carried out and completed within eight weeks from the date of service of the RSEO.
  5. On 16 December 2019 the ordinary member of the Tribunal carried out a re-inspection of the property, after the time for completing the work specified in the order had expired.
  6. The ordinary member found as follows:-
    - (i) The hob has been replaced with a used item, which was found to be heating. However, the lettering is missing from the fascia and as such, there is no clear indication of the

likely heating output of the plates or indeed, if they are on or off. The built-under oven has been replaced with a used item which has a complete outer door. However, again the lettering is missing from the fascia and it is not possible to accurately set the oven temperature.

- (ii) A heat detector has been fitted to the ceiling of the lounge kitchen and a heat detector has been fitted to the inner hall. The alarms sounded together when tested.
- (iii) Replacement vinyl has been put down in the lounge/kitchen and bathroom, It has been poorly fitted, with areas patched-in and loose edges running up skirting boards. There is now a green carpet in the bedroom and grey carpet in the inner hall, both are marked and soiled.
- (iv) Internally, there was daylight visible around the edges of the main door when held on the latch or cylinder lock. When the main deadlock was used, the door was secured and held closer to the frame and daylight was not visible. Externally, a new draught excluded has been fitted.
- (v) The hole in the ceiling in the inner hallway has been repaired and the ceiling roughly decorated.
- (vi) Please refer to item (2).
- (vii) A cover has been affixed to the upper section of the airing cupboard.
- (viii) The flex has been reconnected to the immersion heater. However, the cover is insecure and there was a blue flash when the cover was disturbed. Furthermore, the cylinder was seen to be leaking.
- (ix) The bedroom window remains as before, it can be opened slightly before contacting the external screen. There is a block missing from the latch. The external security screen is unchanged, and remains welded to brackets bolted into the wall externally.
- (x) The ceiling rose in the bedroom is unchanged from previously and remains in a lowered position.
- (xi) The patch repaired ceiling has been re-instated with flush patches to the bedroom and inner hall.
- (xii) The external fan within the bathroom was tested and found to be operational with a terminal fitted to the exterior.
- (xiii) The pointing to the stonework around the front elevation of the flat and the cracks close to the junction of the gable and front elevation remain as found previously, with no repairs apparent.
- (xiv) There is a patch repair to the lowest area of missing render to the east elevation, other missing render remains with exposed brickwork and timber lintels visible to the higher areas to east side of the building.
- (xv) Vegetation growth remains to the masonry at the gable and front elevation.
- (xvi) An Electrical Installation Condition Report (EICR) dated 30/10/19 was produced at the re-inspection. A brief examination of the report showed that it was contradictory, in as much as the system was described as "satisfactory" but yet disclosed a fault with one of the circuits. The Landlord was requested to copy the report and submit it to the Tribunal.

### **Reasons for the decision**

- 7. From the re-inspection, it was self evident that the landlord has not fully complied with the RSEO, in particular:-
  - (i) The hob has no lettering on its fascia and as such there is no clear indication of the likely heating output of the plates or indeed if they are turned off. The built-in oven again has lettering missing from the fascia and it is not possible to accurately set the oven

- temperature. The replacement appliances are therefore not in a reasonable state of repair.
- (iii) The replacement vinyl put down in the lounge/kitchen and bathroom is poorly fitted. The carpet in the bedroom and in the inner hall are both marked and soiled. These furnishings are not safe, as they are soiled and are trip hazard.
  - (iv) There is daylight visible around the edges of the main door when held on a latch or cylinder lock. The front door is not wind and watertight.
  - (viii) On the immersion heater the cover is insecure and there was a blue flash when the cover was disturbed. The cylinder is leaking. Clearly, the electrical installation is unsafe and the cylinder is not in a reasonable state of repair.
  - (ix) The bedroom window remains as before. It can be opened slightly before contacting the external screen. The window and the screen are not in a reasonable state of repair. In the event of a fire outbreak in the kitchen, it would not be possible to escape from the flat via the bedroom window.
  - (x) The ceiling rose in the bedroom is unchanged from previously and remains in a lowered position. This part of the electrical installation remains not in a reasonable state of repair.
  - (xiii) The pointing to the stonework around the front elevation of the flat and the cracks close to the junction of the gable and front elevation remain as found previously with no repairs apparent. The structure and exterior of the building remains not in a reasonable state of repair.
  - (xiv) There is a patched repair to the lower area of missing render to the east elevation. Other missing render remains with exposed brickwork and timber lintels visible to the higher areas to the east side of the building. The structure and exterior of the building remains not in a reasonable state of repair.
  - (xv) Vegetation remains to the exterior of the building rendering it not in a reasonable state of repair.
  - (xvi) The EICR has yet to be supplied to the Tribunal. There mains issues with the electrical installation which render it not in a reasonable state of repair.
8. After careful consideration of the facts and careful reflection, the Tribunal accepted that although some elements of the RSEO had been properly attended to, it was clear that the majority had not been and the RSEO has not been fully complied with. The property remains in poor condition with significant defects which would have a significant detrimental effect on the occupant. Almost six months had elapsed from the issue of the RSEO, which itself followed prior notification of the defects to the landlord. There were no representations received to provide additional background as to the lack of progress of the works to comply with the RSEO nor was there a request made for additional time to complete works nor any indication of intention to complete. No representations were received in relation to the matter of a rent relief order. Accordingly, the Tribunal determined that the landlord has failed to comply with the RSEO.
  9. The Tribunal must serve notice of the failure on the Local Authority as required by Section 26(2) of the 2006 Act.
  10. The Tribunal decided to make a rent relief order in terms of Section 26(2)(b) of the 2006 Act.
  11. The Tribunal proceeded to consider the appropriate level of rent reduction.
    - (i) On the initial visit of the Tribunal on 18 June 2019 the property was in extremely poor condition.
    - (ii) It is accepted that some repairs have been undertaken but significant works have not been concluded satisfactorily and others have not been attended to at all. The inadequate

means of escape in the event of a fire, the unsafe electrical installation and lack of hot water are particularly serious matters.

12. Taking into account all the circumstances with particular regard to the safety issues involved the Tribunal decided that an appropriate level of reduction was 90% of the rent payable for the remainder of the tenancy.

**Right of Appeal**

**A landlord, tenant or third party applicant aggrieved by the decision of the tribunal may seek permission to appeal from the First-tier Tribunal on a point of law only within 30 days of the date the decision was sent to them.**

**Effect of section 63**

Where such an appeal is made, the effect of the decision and of the order is suspended until the appeal is abandoned or finally determined, and where the appeal is abandoned or finally determined by confirming the decision, the decision and the order will be treated as having effect from the day on which the appeal is abandoned or so determined.

M Thorley

Signed .....  
Chairperson

Date 28-02-20 .....