

# 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: Sections 26 (Scotland) Act 2006, as amended**

**Chamber Ref: FTS/HPC/RP/22/0177**

**Title no: SEL2255**

**30 Meikle Street, Galashiels TD1 1LL (“The Property”)**

**The Parties:-**

**Mr Steven Hill residing at 20 Panmure Place, Edinburgh EH3 9JJ (“the Landlord”)**

**Miss Holly Aiton, residing at 30 Meikle Street, Galashiels (“the Tenant”)**

**Tribunal Members: Richard Mill (Legal Member) and Greig Adams (Ordinary Member)**

### **Decision**

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”), having made enquiries for the purposes of determining whether the landlord has complied with the Repairing Standard Enforcement Order (“the RSEO”) dated 28 April 2022, unanimously determined that the landlord has **failed to comply**. Notice of the failure will be served on the local authority.

### **Background**

Reference is made to the determination of the Tribunal dated 28 April 2022 which decided that the landlord has failed to comply with the duty imposed by Section 14 of the Housing (Scotland) Act 2006 (“the Act”) and to the Repairing Standard Enforcement Order (“the RSEO”) also dated 28 April 2022 confirming that the landlord has failed to ensure that the property meets the repairing standard.

The RSEO required the landlord to undertake works as is necessary for the purposes of ensuring that the property concerned does meet the repairing standard and that any damage caused by the carrying out of work in terms of the said Order is made good.

In particular, the Tribunal required the landlord to produce:-

- “1. To undertake building works to the external stair and landing, at the rear of the property, to prevent water ingress into the property.
2. To strip the internal rear wall of the bedroom of the property, make good any damage caused by the water ingress, install a damp proof membrane, reinstate the wall and redecorate.

The Tribunal orders that the works specified in this Order must be carried out and completed within a period of 10 weeks and that any redecoration required, as a consequence of the works being undertaken are also completed, from the date of service of this Notice and evidenced to the Tribunal.”

### **Reasons for Decision**

1. The Tribunal reinspected the property on 12 September 2022. In advance of this the tenant reported, as evidenced by photographs, that water ingress continues into the bedroom of the property.
2. The landlord was present at the time of reinspection. He candidly acknowledged that despite work having been instructed and undertaken, that the water ingress complained about by the tenant continues.
3. The Tribunal noted that work, including repointing to stonework, had been undertaken to the external rear elevation of the property; and that internal renovation work to the external wall of the bedroom had been undertaken in accordance with the Repairing Standard Enforcement Order (RSEO) previously issued by the tribunal.
4. The Tribunal has found that the landlord has acted diligently and in good faith since the making of the RSEO. He accepts, and the Tribunal finds, that further works are however required to prevent continued water ingress to the property. It is appreciated that the remedy is likely to be complex.
5. A direction was issued requiring the landlord to provide invoices and other paperwork disclosing the detail of the work already undertaken in compliance with the RSEO and vouching from a suitable qualified contractor in respect of further proposed works to remedy the continued water ingress to the property.
6. The landlord produced vouching to evidence that repointing had been undertaken to the stonework at rear elevation and specialist dampproof

works and associated redecoration had taken place internally. The landlord however accepts that the RSEO has not been fully complied with as regrettably water ingress continues despite over £5,000 being spent on all works to date. The Tribunal recognises that the landlord has acted in good faith and has attempted to comply.

7. Reference is made to the reinspection report and schedule of photographs already issued to parties.
8. By way of email dated 4 October 2022 the landlord has reported that his company, Teviot Tech Ltd, which is the registered owner named in the land register, does not have sufficient further funds to instruct further works and has decided to sell the property.
9. In the circumstances the Tribunal issued a further direction advising that it would intend to make a decision that the landlord has failed to comply with the RSEO and consider making a Rent Relief Order. The Tribunal proposed to determine these issues without the need for any further formal hearing. If either party wished to make written representations in respect of these matters, or alternatively, wished to request an oral hearing for such issues to be determined then such submissions / request were required to be made in writing no later than 5pm on Friday 28 October 2022.
10. Both parties responded to the said direction. The landlord did not suggest that a failure to comply decision should not be made. Both parties agree that the Tribunal's reinspection report is accurate. Both parties agree that a Rent Relief Order should be made. Neither party requested a hearing.
11. The landlord has failed to comply despite attempts to comply. He does not intend to comply further. The Tribunal has no choice but to find a failure to comply.
12. The Tribunal considered whether to make a Rent Relief Order in terms of Section 27 of the Act. The tenant is adversely impacted by the outstanding repairs required in terms of the RSEO. Her enjoyment of the property is not impaired all of the time but is when there is heavy rainfall. The area affected is restricted to the bedroom around the window but is significant nonetheless. The tribunal determined that a reduction of rent in the sum of 30% would be reasonable and proportionate.
13. Section 29 of the Act provides that a landlord who, without reasonable excuse, fails to comply with a Repairing Standard Enforcement Order commits an offence. Accordingly, the Tribunal determined that Police Scotland should be notified of the Landlord's failure to comply with the Order.

## **Right of 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.

**R Mill**

Legal Member

28 October 2022

# Housing and Property Chamber

## First-tier Tribunal for Scotland

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

**RENT RELIEF ORDER under Section 27 of the Housing (Scotland) Act 2006 as amended ("the Act")**

**Chamber Ref: FTS/HPC/RP/22/0177**

**30 Meikle Street, Galashiels TD1 1LL  
("The House")**

**The Parties:-**

**Mr Steven Hill residing at 20 Panmure Place, Edinburgh EH3 9JJ ("the Landlord")**

**Miss Holly Aiton, residing at 30 Meikle Street, Galashiels ("the Tenant")**

### **NOTICE TO ("the Landlord")**

Whereas in terms of its decision dated 28 October 2022, the First-tier Tribunal for Scotland (Housing and Property Chamber) ('the Tribunal') determined in terms of Section 26(1) of the Housing (Scotland) Act 2006 (the "said Act") that the Landlord has failed to comply with the Repairing Standard Enforcement Order in relation to the house made by the Tribunal.

The Tribunal determined to make a Rent Relief Order in terms of Section 27 of the said Act reducing the rent payable under the tenancy for the house by an amount of 30% of the rent which would, but for the order, be payable. The rent reduction will take effect 28 days after the last date on which the decision to make the Rent Relief Order may be appealed under section 64 of the said Act. To ascertain the last date on which the decision can be appealed, please refer to the information note on appeals and reviews, a copy of which is attached.

**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.**

In terms of Section 63 of the Act, 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.

If an application for permission to appeal is received, then the Tribunal will notify you of this and the eventual outcome of that application and any subsequent appeal.

Signed **R Mill**

Legal Member

Date 28 October 2022