

# **Housing and Property Chamber**

## **First-tier Tribunal for Scotland**

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### **Statement of Decision**

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

**Decision and Statement of Reasons: Housing (Scotland) Act 2006 s22(1)**

**Chamber Ref: PRHP/RP/16/0349**

**Title no FFE57606**

**1 Middlefield Cottage, Hawklaw, Cupar, Fife, KU15 4PL  
("The Property")**

#### **The Parties**

**Miss Kerrie Noble, 1 Middlefield Cottage, Hawklaw, Cupar, Fife, KU15 4PL  
("the Tenant")**

**Mr Alan Hughes ("the Landlord")  
(represented by their agent Your Move, 31A North Bridge street, Bathgate, west  
Lothian, Scotland EH48 4PJ**

#### **Decision**

The First-tier tribunal for Scotland (Housing and Property Chamber) ('the tribunal'), determined that the Landlord has continued to fail to fully comply with the repairing standard enforcement order (RSEO) dated 24th January 2017.

The Tribunal consisted of Lesley Dowdalls, Solicitor, 23 The Foregate, Kilmarnock and Geraldine Wooley, ordinary member.

#### **Background**

1. On 31<sup>st</sup> March 2017, the Tribunal issued a decision that the Landlord had failed to comply with the RSEO all as detailed in a reinspection report attached to said decision and dated 13<sup>th</sup> March 2017.



The RSEO made by the Tribunal required the Landlord to:

- a) Repair the conservatory roof and door to make it wind and watertight, and to repair the floor tiles.
  - b) Upgrade the fire alarm system and install carbon monoxide alarms to meet current standards.
  - c) Produce within 4 weeks of notice of this decision an Electrical Installation Condition Report carried out by a properly registered electrician and showing that the fire alarm system meets current standards and is in working order, and that the electrical installation in the property is in a fit state to support the fire alarm system.
  - d) Ensure that the back door is wind and watertight, has a key and working lock, and is in full working order.
2. The Tribunal ordered that the works specified in the order, be carried out and completed within 28 days from the date of service of the notice of the repairing standard enforcement order.
  3. On 13<sup>th</sup> March 2017, the ordinary member re-inspected the property. Re-inspection report dated 13<sup>th</sup> April 2017 and refer to within decision dated 31<sup>st</sup> March 2017 is referred to for its terms. As a result of the failure by the Landlord to comply with the RESO, a rent relief order was granted on 31<sup>st</sup> March 2017.
  4. The Tribunal proceeded with a re-inspection carried out by the ordinary member on 24<sup>th</sup> April 2018. Reference is made to re-inspection report attached to this decision.
  5. In terms of said reinspection, the ordinary member noted the following:

Requirement 1. Repairs have been carried out to the conservatory but the floor tiles within the conservatory still required to be repaired.

Requirement 2. A qualified electrician should be required to test the fire alarm system and provide a written report showing the smoke and heat alarms are interconnected, meet the current standard and are in working order. As at the date of the inspection, all smoke alarms are appropriately located. However, the ordinary member noted that the appliance in the rear lobby is an old model and may need replacement. There are heat alarms in both the kitchen and sitting rooms. On testing they did not appear to be interconnected with the smoke alarm system. There is a CO monitor in the living room.

Requirement 3. An EICR has been produced indicating that the electrical system is in a satisfactory condition. It does not indicate however whether the fire protection system meets the current standard. Some light fittings remain in a poor condition.

Requirement 4. This requirement appears to have been fully met as the backdoor now has a key and is in working order. There are seals in place and



externally the door is well fitted. Although drafts do occur in high winds, this reflects the age and exposed position of the property.

6. In all the circumstances, the tribunal is not satisfied that the Landlord has carried out sufficient steps to comply fully with the terms of the RSEO issued by the Tribunal. The outstanding work is as detailed in the re-inspection report.
7. The Tribunal determines that the Landlord has continued to fail to comply with the terms of the RSEO.

In terms of Section 46 of the Tribunal (Scotland) Act 2014, a party agreed 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.

In witness whereof these presents type written on this and the preceding page(s) are executed by Lesley Dowdalls, solicitor, 23 The Foregate, Kilmarnock), chairperson of the tribunal, at Kilmarnock on 21<sup>st</sup> June 2018 before this witness:-

M Telfer

L Dowdalls

\_\_\_\_\_ witness \_\_\_\_\_ person

MADELEINE TELFER name in full LESLEY DOWDALLS name in full

23 THE FOREGATE Address 23 THE FOREGATE Address  
KILMARNOCK KILMARNOCK



*This is inspection report  
of 24th April 2018 referred to  
in decision of 21st June 2018 attached hereto*

L Dowdalls

*Chairperson*

## Housing and Property Chamber First-tier Tribunal for Scotland



### Re-inspection report

**Property:** 1 Middlefield Cottage, Hawkhill, Cupar KY15 4PL

**Ref no:** prhp/rp/16/0349

**Surveyor :** Geraldine Wooley MRICS

**Access:** 24/04/18 at 10.00am  
Weather – fine and dry

**Attendee:** Miss Kerrie Noble – tenant  
Mr David Fotheringham – Your Move



**General comments:** the conservatory roof has been replaced but the floor tiles have not been repaired. There is a valid EICR, but the fire detection system still does not meet the required standard.

#### RSEO: works required:

- (a) To repair the conservatory roof and door to make it wind and watertight, and to repair the floor tiles
- (b) To upgrade the fire alarm system and install carbon monoxide alarms to meet current standards
- (c) To produce within 4 weeks of notice of this decision an Electrical Installation Condition Report carried out by a properly registered electrician, and showing that the fire alarm system meets current standards and is in working order, and that the electrical installation in the property is in a fit state to support the fire alarm system
- (d) To ensure that the back door is wind and watertight, has a key and working lock, and is in full working order

#### Works in RSEO undertaken:

- The double-pitched conservatory roof has been replaced with a single pitched roof which appears to be wind and watertight (see photos pg 1)
- The conservatory door appears to be reasonably well-fitted (see photo pg 4)
- As at the reinspection of 13/03/17, all smoke alarms are appropriately located (see photos pg 2). However, it should be noted that the appliance in the rear lobby is an old model and may need replacement.
- There are heat alarms in both the kitchen and sitting room. However, on testing they still did not appear to be interconnected with the smoke alarm system (see photos pg 2)



- As at the reinspection of 13/03/17, there is a CO monitor in the living room (see photo pg 2)
- An EICR has been produced (see appendix 1) indicating that the electrical system is in a satisfactory condition. However it does not indicate whether the fire protection system meets the current standard. Although not covered by the RSEO, it should be noted that some light fittings remain in a poor condition. (see photo pg 2)
- As at the reinspection of 13/03/17 the back door has a key and is in working order. There are seals in place and externally the door is well-fitted. Although draughts do occur in high winds, this reflects the age and exposed position of the property.

#### **Works in RSEO outstanding:**

- The floor tiles in the conservatory still need to be repaired (see photo pg 3)
- A qualified electrician should be asked to test the fire alarm system and provide a written report showing that smoke and heat alarms are interconnected, meet the current standard and are in working order.

#### **Other matters**

At the inspection the tenant claimed that the agents had not implemented the RRO correctly. She indicated that a "voluntary" deduction had been made before the RRO was served, but since the work to the conservatory roof had been completed the rent has been raised back to the full level. I pointed out to Mr Fotheringham that the rent reduction in the RRO remained in place until the tribunal was satisfied that the work in the RSEO had been undertaken and the full legal process was completed. Although he is not responsible for the management of the property he agreed to ensure that the agents were aware of this process and implemented the RRO correctly.



## Appendix 1 Extract from EICR showing “satisfactory” report



### ELECTRICAL INSTALLATION CONDITION REPORT

Issued in accordance with British Standard BS 7671 - Requirements for Electrical Installations

Certificate Reference: Domestic Electrical Installation Certificate95

<b>1</b>	<b>DETAILS OF THE CLIENT</b>
Client: Yourmove	
Address: 1 Middlefield Cottage , Hawklaw, Cupar	
<b>2</b>	<b>PURPOSE OF THE REPORT</b>
Purpose for which this report is required: To assess compliance with BS 7671.	
<b>3</b>	<b>DETAILS OF THE INSTALLATION</b>
Installation Address: Same as Client Address	
Description of premises: Domestic <input type="checkbox"/> N/A <input type="checkbox"/> Commercial <input checked="" type="checkbox"/> Industrial <input type="checkbox"/> N/A <input type="checkbox"/> Other: <input type="checkbox"/> N/A	
Estimated age of electrical installation: 30+ years Evidence of alteration or additions: Yes if yes, estimated age: 5+ years	
Date of previous inspection: 28/09/2017	
Records of installation available: NO Electrical Installation Certificate No or previous Periodic Inspection Report No: C95	
<b>4</b>	<b>EXTENT OF THE INSTALLATION AND LIMITATIONS OF THE INSPECTION AND TESTING</b>
Extent of the electrical installation covered by this report: External Visual inspection of all accessible equipment- Internal inspection of the consumer unit and sample items on each circuit tested	
Agreed and operational limitations of the inspection and testing (include reasons and person agreed with): Characteristics of primary supply overcurrent device. No testing of HVAC control cables. No testing of unverified circuits. No lifting of floor boards or inspection of loft space. Limitations of routing of cables.	
The inspection has been carried out in accordance with BS 7671:2008, as amended to 2015. Cables concealed within trunking and conduits, under floors, in roof spaces and generally within the fabric of the building or underground, have not been inspected unless specifically agreed between the client and inspector prior to the inspection.	
<b>5</b>	<b>DECLARATION</b>
I/We, being the person(s) responsible for the inspection and testing of the electrical installation (as indicated by my/our signatures below), particulars of which are described on page 1 (see section 2), having exercised reasonable skill and care when carrying out the inspection and testing, hereby declare that the information in this report, including the observations (see section 7) and the attached schedules (see section 17), provides an accurate assessment of the condition of the electrical installation taking into account the stated extent of the installation and the limitations on the inspection and testing (see section 4).	
For the INSPECTION, TESTING AND ASSESSMENT of the report:	
Name: CHRISTOPHER INGLIS	Position: Owner
Signature:	Date: 28/09/2017
<b>6</b>	<b>SUMMARY OF THE CONDITION OF THE INSTALLATION</b>
See page 3 for a summary of the general condition of the installation in terms of electrical safety.	
Overall assessment of the installation in terms of its suitability for continued use*:	
SATISFACTORY	
* An unsatisfactory assessment indicates that dangerous (Code C1) and/or potentially dangerous (Code C2) conditions have been identified.	



# Appendix 2: photos

I Middlefield Cottage, Hawkhill, Cupar KY15 4PL

24/04/18



# 1. Conservatory (internal)



As at 13/03/17 – double pitched roof showing slipped glazing panels exposing the flashing and open to water and wind penetration



As at 24/04/18 – replaced by single pitched roof – now wind and watertight



# 1. Conservatory (external)



As at 13/01/17 – side elevation showing double pitched conservatory roof



As at 24/04/18 – side elevation showing new single pitched roof



## 2. Fire detection system – smoke alarms



Front lobby – new fitting (note damaged light fitting)



Bedroom at end of front lobby – new fitting



Rear lobby – old fitting that may need replacing



## 2. Fire detection system – heat detectors and CO alarm



Sitting room – heat detector



Kitchen – heat detector



Sitting room – CO alarm

Heat and smoke detectors do not appear to be interconnected



### 3. Floor tiles in conservatory



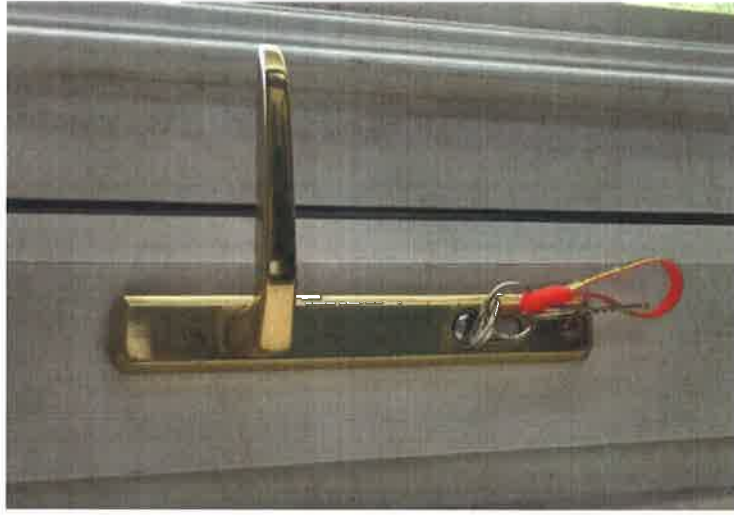
As at 13/03/17



As at 24/04/18 – further cracking to tiles



## 4. Doors



Rear door with functioning  
key



Conservatory door  
as at 24/04/18