

# Housing and Property Chamber

## First-tier Tribunal for Scotland



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

**Repairing Standard Enforcement Order (RSEO): Housing (Scotland) Act 2006  
Section 24**

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

**Title no: SEL2255**

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

**The Parties:-**

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

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

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

**NOTICE to MR STEVEN HILL residing at 20 Panmure Place, Edinburgh EH3 9JJ  
("the Landlord")**

Whereas in terms of their decision of even date the Tribunal determined that the landlord has failed to comply with the duty imposed by section 14(1) of the Housing (Scotland) Act 2006 ("The Act"), and in particular that the landlord has failed to ensure that:-

- the house is wind and watertight and in all other respects reasonably fit for human habitation.

The Tribunal now requires the landlord to carry out such works as are necessary for the purposes of ensuring that the property concerned meets the Repairing Standard and that any damage caused by the carrying out of any work in terms of this Order is made good.

In particular the Tribunal requires the landlord:-

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.

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.

Please note that in terms of section 28(1) of the Act, a landlord who, without reasonable excuse, fails to comply with a RSEO commits an offence liable on summary conviction to a fine not exceeding level 3 on the standard scale. A landlord (and that includes any landlord's successor in title) also commits an offence if he or she enters into a tenancy or occupancy arrangement in relation to a house at any time during which a RSEO has effect in relation to the house.

In witness whereof these presents type written on this and the preceding page(s) are executed by Richard George Mill, solicitor, 69-71 Dalry Road, Edinburgh EH11 2AA, legal member of the Tribunal at Edinburgh on 28 April 2022 before this witness:-

**R G Mill**

# 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 Section 24 (1)**

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

**Title no: SEL2255**

**30 Meigle Street, Galashiels TD1 1LL ("The Property")**

**The Parties:-**

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

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

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

### **Decision**

The property does not meet the repairing standard. The landlord has/has not complied with the duty imposed by section 14(1) of the Housing (Scotland) Act 2006. A Repairing Standard Enforcement Order is necessary.

### **Background**

1. By way of application, the tenant applied to the Tribunal for a determination of whether the landlord has failed to comply with the duties imposed by section 14(1) of the Act in respect of the property.
2. In the application the tenant stated that the landlord had failed to comply with their duty to ensure that the property meets the repairing standard in a number of respects. The relevant elements of the

repairing standard put at issue are those contained within Section 13(1)(a).

- Whether the house is wind and watertight and in all other respects reasonably fit for human habitation.

### **Inspection**

3. The Tribunal inspected the property on 20 April 2022 at 10.30 am. The tenant was present and invited the Tribunal members into the property. The landlord was invited but did not attend. Covid-19 precautions and protocols were followed.

### **Pre-Hearing Survey Report following the Tribunal's Inspection of the Property on 20 April 2022**

4. An inspection report with schedule of photographs was produced to the parties following the inspection. These depict the condition of the property relative to the issues complained of.

### **Hearing**

5. Following the inspection of the property, the Tribunal convened a hearing on 28 April 2022 at 10.00 am by teleconference. Both parties joined personally.

### **Summary of Issues**

6. The issues to be determined by the Tribunal are whether or not the property meets the repairing standard to the extent put at issue within the application, as at the date of the hearing.
7. The tenant stated in her application that "bedroom window letting water in and causing damp and mould and wall staining". She highlighted that a window repair was necessary.
8. Prior to the inspection the landlord lodged written submissions. He referred to the enquiries which he had made in respect of the presenting water ingress. He referred to the instruction of an independent specialist report from Nirvana Preservation. It had been identified that the source of the water was from the external stairway and landing situated at the rear of the building which access upper flats in the tenement. Work is necessary to remedy this and thereafter to strip the internal wall, install a dampproof membrane and reinstate and

redecorate. The landlord was clear that he was keen to have the work undertaken.

### **Findings in Fact**

9. The Tribunal makes the following findings in fact:
  - a. The title to the subjects known as 30 Meigle Street, Galashiels TD1 1LL is held by Teviot Tech Ltd in the Land Register of Scotland under Title number SEL2255. The named landlord on the private residential tenancy agreement between the parties is Mr Steven Hill, the respondent, who is Director of the company.
  - b. The property which is the subject of this application is a ground floor one bed roomed flat within a traditional stone built tenement. There is a small entrance hallway, living room/kitchen, one bedroom and bathroom.
  - c. In the bedroom of the property there is evidence of water ingress with resulting damp and associated staining and markings evident across parts of the rear elevation. Significant levels of moisture were detected in the rear wall.
  - d. The most likely source of the water ingress is via the external stairway and landing at the rear of the property where areas of disrepair are evident including failure of past repairs.
  - e. When it rains there is substantial water directly entering the property around the bedroom window is adversely affecting the tenant's use and enjoyment of the property.
10. Reference is made to the schedule of photographs comprised within the inspection report prepared by the Tribunal and issued previously to the parties.

### **Reasons for Decision**

11. The Tribunal determined the application having regard to the bundle of papers which were made available, together with their observations at the inspection and the representations made to the Tribunal at the hearing.
12. The Tribunal is only able to consider the complaints which formed part of the intimated application and had an obligation to consider the complaints as at the date of the hearing on 28 April 2022.

13. The Tribunal was satisfied having regard to all of the available evidence that there was sufficient information and material with which to reach a fair determination of the reference.
14. The landlord does not dispute that works require to be carried out to ensure that the property meets the repairing standard. To the landlord's credit, whilst there has been some delay, he has taken appropriate steps to investigate the condition of the property himself and identified the necessary works which require to be undertaken. He has obtained a report from Nirvana Preservation which contains recommended works and has now taken steps to instruct those works. It has been identified that it is necessary to undertake building works to the external stair and landing, at the rear of the property, to prevent further water ingress into the property. It has also been identified that it is necessary to strip the internal rear wall of the bedroom of the property, make good any damage caused by the water ingress, install a dampproof membrane, reinstate the wall and redecorate.
15. The Tribunal determined to make a Repairing Standard Enforcement Order (RSEO) in terms of the work which the landlord himself has identified are necessary. The Tribunal determined that the landlord be provided with a period of 10 weeks to carry out these works which is reasonable given the nature and extent of the works.
16. The Tribunal appreciates the active engagement of the landlord in this application and his willingness to cooperate to undertake the necessary works. The Tribunal also noted that the parties are in direct communication with one another regarding the works to be undertaken.

### **Decision**

17. The Tribunal, having made enquiries for the purposes of determining whether the landlords have complied with the duty imposed by Section 14(1) of the Housing (Scotland) Act 2006 ("the Act") in relation to the property, determined that the landlord has failed to comply with his duty imposed by Section 14(1)(b) of the Act in respect that the property does meet the repairing standard.

### **Right of Appeal**

18. 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.

19. 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.

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**R G Mill**