

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/17/0130

**Title no/Sasines Description: 11 Hamilton Place, Glenrothes, KY6 1AJ, being
the subjects registered in the Land Register of Scotland under title number
FFE81847**

("the property")

The Parties:-

**MR ALEXANDER YOUNG & MRS LORRAINE YOUNG, 11 Hamilton Place,
Glenrothes, KY6 1AJ**

**(represented by Frontline Fife, Leven, 34 Commercial Road, Leven, KY8 4LD
("the Tenants"))**

MR LENDRICK GILLIES, 132 St. John Road, Edinburgh, EH12 8AX

**(represented by Finesse Property Solutions Limited, 137 Staunton Rise,
Livingston, West Lothian, EH54 6PA**

("the Landlord")

**GRAHAM HARDING (Legal Member) and DAVID GODFREY (Ordinary Member)
("the tribunal")**

NOTICE TO THE SAID MR LENDRICK GILLIES

Whereas in terms of its decision dated Thirteenth June Two Thousand and seventeen, The tribunal determined that the Landlord has failed to comply with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 ("The Act") and in particular that the Landlord has failed to ensure that the property is:-

- (a) wind and water tight and in all other respect reasonably fit for human habitation;
- (b) the structure and exterior of the property (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order;
- (c) the installations in the house for the supply of water, gas and electricity and for the sanitation, space heating and heating water are in a reasonable state of repair and in working order.

The tribunal now requires the Landlord to carry out such work as is necessary for the purposes of ensuring that the property 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:-

- (a) to produce a valid Electrical Installation Condition Report completed by a suitably competent person registered with NICEIC or SELECT. The report should show that the electrical system is satisfactory and in working order and has no category 1 or 2 defects;
- (b) to produce a valid Gas Safety Certificate completed by a suitably competent person entered on the Gas Safe Register. The Report should show the gas safety system is satisfactory and in working order;
- (c) To repair the loose steps at the back door of the property to ensure that they are secure and in a reasonable state of repair.
- (d) To repair the loose trickle-vents on the double-glazed windows to ensure that the house is wind and water tight.
- (e) To install a mechanical vent in the bathroom and treat the bathroom ceiling to remove the mould prior to redecoration.

The tribunal orders that the work specified in this Order must be carried out and completed within the period of 28 days of receipt of this Order.

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 to 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. This is in terms of Section 28(5) of the Act.

In witness whereof these presents type written on this and the preceding 2 page(s) are executed by Graham Harding, Solicitor, 17-21 George Street, Perth, chairperson of the tribunal at Perth on 13 June 2017 before this witness:-

K Cowie

G Harding

witness

chairperson

KARA MARINA COWIE name in full

17-21 GEORGE STREET Address

PERTH, WA 6150

Housing and Property Chamber

First-tier Tribunal for Scotland



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

STATEMENT OF DECISION of the Housing and Property Tribunal under Section 24 (1) of the Housing (Scotland) Act 2006

Chamber Ref: FTS/HPC/RP/17/0130

**11 Hamilton Place, Glenrothes, KY6 1AJ
("the property")**

The Parties:-

MR ALEXANDER YOUNG and MRS LORRAINE YOUNG, 11 Hamilton Place,
Glenrothes, KY6 1AJ (represented by their agent Frontline Fife, Leven, 34
Commercial Road, Leven)
("the Tenants")

AND

MR LENDRICK GILLIES, 132 St. John Road, Edinburgh, EH12 8AX (represented
by his agent Finesse Property Solutions Limited, 137 Staunton Rise, Livingston,
West Lothian, EH54 6PA
("the Landlord")

The First-tier Tribunal for Scotland (Housing and Property Chamber) **("the tribunal")**

The Decision

The tribunal having made such enquiries as it saw fit for the purposes of determining whether the landlord has complied with the duty imposed by Section 14 (1) (b) of the Housing (Scotland) Act 2006 **("the Act")** in relation to the property and taking account of the evidence led on behalf of the Tenant and the written representations of the Landlord at the hearing determined that that the landlord had failed to comply with the duty imposed by Section 14 (1) (b) of the Act.

Background

1. By application received on 04 April 2017, the Tenant applied to the First-Tier Tribunal (Housing and Property Chamber) for a determination of whether the Landlord had failed to comply with the duties imposed by Section 14 (1) (b) of the Act.
2. The application by the Tenants stated that the Tenants considered that the Landlord had failed to comply with his duty to ensure that the property meets

the repairing standard and in particular that the Landlord had failed to ensure:-

- i. The property was wind and water tight and in all other respects reasonably fit for human habitation;
 - ii. The structure and exterior of the house (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order;
 - iii. Any fixtures, fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order;
 - iv. The house has satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health.
3. The applicant stated that the windows were not wind tight. The cooker supplied by the Landlord was broken. There was no Gas Safety Certificate, the electrics were faulty. The carbon monoxide detector was broken. There was an insecure external step. There were leaking rhone pipes at the front and back of the property and there was no ventilation in the bathroom.
4. The Tenants' representatives, Frontline Fife, intimated the alleged defects to the Landlord and the Landlord's then agents, Homelink, Coatbridge, by letter dated 07 March 2017. By Minute dated 06 April 2017, the in house convener with delegated powers intimated a decision to refer the application to the tribunal. By letters dated 26 April 2017 the Tenants and the Landlord and their representatives were given notice of referral, inspection and hearing in terms of Section 23 (1) of the Act.
5. By correspondence received by the tribunal on 10 May 2017, the Landlord issued written representations. The Landlord stated that he had instructed a new management company, Finesse Property Solutions following a breakdown in his relationship with his previous representatives Homelink, Coatbridge. The Landlord stated that through his representatives, Finesse Property Solutions the works required to the property were being carried out. The report from Finesse Property Solutions attached to the Landlord's correspondence stated that a carbon monoxide detector had been fitted, a Gas Safety Certificate issued, smoke alarms and heat detectors had been fitted. Silicone had been applied to inside the windows; repairs had been carried out to the electrical system and a new oven and hob had been supplied and fitted. There had also been other additional works done. The report stated that repairs still to be completed consisted of repairs to the bottom step at the back door; the front and back rhones; bathroom ventilation and trickle vents on windows.
6. The tribunal consisted of Graham Harding (Legal Member) and David Godfrey (Ordinary Member).

7. The tribunal inspected the property on the morning of 05 June 2017. The Tenant, Mrs Lorraine Young, was present. The Landlord was not present nor represented. It was raining at the time of the inspection. The property comprises a terraced two storey villa built in the 1970s. The internal accommodation extends to a sitting room, three bedrooms, kitchen and bathroom. There was evidence of mould in the bathroom which did not have a mechanical vent. The property was fitted with smoke and heat detectors in the lounge, upper landing and kitchen. A carbon monoxide detector was fitted to the ceiling in the kitchen. There were broken trickle vents on a number of the windows. The windows otherwise appeared to be in reasonable condition. Although it was raining quite heavily at the time of the inspection, there were no obvious leaks from the front or back rhones. A new oven and hob had been supplied and fitted. The Landlord's electrical installations had been PAT tested. The Tenant stated that she had been supplied with a Gas Safety Certificate. However this was not available to the tribunal. The Tenant stated that work had been carried out to the electrics in the property. There was some movement of the lower step at the backdoor.

The Hearing

8. Following inspection of the property the tribunal held a hearing at The Lomond Centre, Glenrothes and heard from the Tenant, Mrs Lorraine Young. Neither the Landlord nor the Landlord's representative nor Mr Young were present.
9. The Tenant stated that she was happy that the oven and hob had been replaced although she had had some days without electricity. According to the Tenant, the only major outstanding work was to the windows. The Tenant confirmed that the windows had been sealed with silicone but that all the windows had loose or inoperative trickle vents and that during windy weather, cold air entered through the windows. The Tenant said that she still needed a vent in the bathroom and that due to lack of ventilation there was mould growing on the ceiling of the bathroom. The Tenant acknowledged that although it had been raining on the day of the inspection the rhones were not leaking. She said that in the past they have been overflowing. The Tenant explained that she had an autistic daughter who was not particularly good on her feet and that the wobbly lower step at the back door was not safe. The Tenant said that there was no longer any problem with the electrics. They were no longer tripping the circuit breakers. She said that she did have a Gas Safety Certificate. She did not think that she had seen an Electrical Installation Condition Report. She stated that she would like the remaining work identified in the Landlord's representative report to be completed within a period of one month.
10. The tribunal considered the terms of the written submissions provided by the Landlord and the Landlord's representatives. In the submissions it was acknowledged that further repairs were required to the windows, the rear steps and ventilation in the bathroom.

Summary of the Issues

11. The issue to be determined is whether the repairing standard has been met in light of the what the tribunal observed at the inspection together with the submissions written and verbal on behalf of the Landlord and the Tenant and whether or not the property meets the repairing standards in terms of Section 13 (1) (a), (b), (d) and (f) of the Housing (Scotland) Act 2006.

Findings of Fact

12. The tribunal finds the following facts to be established:-

- i. The tenancy has existed since March 2015. The property comprised a two storey terraced villa. The windows of the property have been sealed internally with silicone. Several of the trickle vents are loose.
- ii. The rhones to the front and rear are showing signs of age but were not leaking on the day of the inspection. The lower step at the backdoor moved slightly when stepped on.
- iii. There were smoke detectors in the upper landing and sitting room and a heat detector in the kitchen that were interconnected.
- iv. There was a carbon monoxide detector fitted in the kitchen.
- v. There was mould in the bathroom above the shower. There was no mechanical vent.
- vi. There was said to be a Gas Safety Certificate that was not produced. There was no Electrical Installation Condition Report.

Reasons for the Decision

13. At the inspection the tribunal noted that some works had been carried out to the property but that further works were required to repair the steps at the backdoor and the window vents. The tribunal also wished sight of a Gas Safety Certificate and an Electrical Installation Condition Report. The tribunal was of the view that the Landlord should provide an Electrical Installation Condition Report showing no category 1 or 2 defects and a Gas Safety Report showing no outstanding issues. The back steps required to be repaired as did the loose vents in the double glazed windows. There was no mechanical vent in the bathroom which showed signs of condensation and mould. The Ordinary Member of the tribunal took several photographs which form the schedule attached to this decision.
14. The tribunal proceed to make a Repairing Standard Enforcement Order as required by Section 24 (2) of the Act.
15. The decision of the tribunal is unanimous.

Right of Appeal

16. 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. 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 5 page(s) are executed by Graham Harding, Solicitor, 17-21 George Street, Perth, chairperson of the tribunal at Perth on 13 June 2017 before this witness:-

K Cowie

G Harding

witness

chairperson

KARA MARINA COWIE name in full

17 - 21 GEORGE STREET Address

PERTH, PH1 5JY

Housing and Property Chamber

First-tier Tribunal for Scotland



PHOTOSHEET



Property: 11 HAMILTON PLACE, GLENROTHES, FIFE KY16 1AJ

Ref no: FTS/HPC/RP/17/0130

Tribunal: Graham Harding and David Godfrey

Inspection: The property was inspected at 09.30 am Monday 5th June 2017.

Access: Mrs Young (Tenant) was present and provided access to the property. Mr Gillies (Landlord) was neither present nor represented.

Photographs

1. Loose vent to Lounge window
2. Replacement cooker
3. Replacement carbon monoxide detector
4. Steps to back door
5. Rear rhones
6. Condensation in bathroom
7. Kitchen heat detector
8. Lounge smoke detector
9. Landing smoke detector



Loose vent to Lounge window



Replacement cooker



Replacement carbon monoxide detector



Steps to back door



Rear rhones



Condensation in bathroom



Kitchen heat detector



Lounge smoke detector



Landing smoke detector

David Godfrey, MRICS
5th June 2017