

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: Reference number: FTS/HPC/RP/21/0063

Property: 31 Warmanbie Road, Brydekirk, Annan, DG12 5ND ("The property")

Parties:

Joseph Sturgeon, residing at 31 Warmanbie Road, Brydekirk, Annan, DG12 5ND
("the Applicant")

Ross Anderson, residing at Millriggs Farm, Hutton, Boneland, Lockerbie, DG11 2PB
("the Respondent")

Tribunal Members:

Paul Doyle (Legal Member)

Donald Wooley (Ordinary Member)

Whereas in terms of their decision dated 3 August 2021, The First-tier tribunal for Scotland (Housing and Property Chamber) ('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 house is wind and watertight and in all other respects reasonably fit for human habitation in terms of Section 13(1)(a) of the 2006 Act;

The installations in the property for the supply of electricity and space heating and heating water are in a reasonable state of repair and in proper working order, in terms of Section 13(1)(c) of the 2006 Act; and

The property has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire, in terms of Section 13(1)(f) of the 2006 Act; and

The house meets the tolerable standard, in terms of Section 13(1)(h) of the 2006 Act.

the tribunal now requires the landlord to carry out such work as is necessary for the purposes of ensuring that the house 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 to

(a) Instruct a SELECT, NICEIC OR NAPIT registered electrician to provide an Electrical Condition Installation Report (EICR) following a full inspection of the electrical installation and apparatus throughout the Property and to repair or renew any areas categorised C1 or C2 to ensure the installation and apparatus is fully functioning and meets current regulatory standards.

(b) Instruct a suitably qualified central heating engineer to inspect the oil fired central heating system to ensure that it is operating satisfactorily, capable of providing adequate heating and hot water and/or complete any repairs required to ensure its satisfactory operation.

(c) Instruct a suitably qualified damp specialist to prepare a detailed survey of the rear wall of the property, to identify the cause and full extent of any dampness, damp staining and specify any remedial action. Thereafter to carry out all recommended repairs to remedy dampness and any associated defects.

(d) Install interlinked smoke and heat detectors within the property, ensuring that they are fully functional and located and powered in accordance with the Housing (Scotland) Act 2006 (Modification of the Repairing Standard) Regulations 2019.

The tribunal order that the works specified in this Order must be carried out and completed within the period of 6 weeks from the date of service of this Notice.

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.

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.

