

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/RT/23/0847**

Property: 21b Kirk Brae, Fraserburgh AB43 9BY('The House')

Title reference: ABN16995

The Parties: -

**Felipe Daniel Mendes Da Veiga and Tania Sofia Fernandes Costa residing at
21b Kirk Brae, Fraserburgh AB43 9BY('the tenants')**

**Kenny Watt, Martylou Ltd, Kinbog Steading, Fraserburgh AB43 8UB ('the
landlord')**

**Eilidh Mackay, Aberdeenshire Council, Gordon House, Blackall Road, Inverurie
AB21 3WA ("the third party")**

Whereas in terms of their decision dated 27th August 2023, 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 water tight and in all other respects reasonably fit for human habitation,**
- **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,**
- **the house meets the tolerable standard**

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:-

1. **Repair or replace the windows to the front of the house to ensure that they are in a reasonable state of repair and in proper working order.**

2. Instruct a suitably qualified person to carry out repairs as are necessary to the roof of the property to ensure that the roof above the kitchen window in the house is wind and water tight.
3. To repair or replace the rainwater goods to the front and rear of the house to ensure they are in a reasonable state of repair and in proper working order.

The Tribunal order that the works specified in this Order must be carried out and completed within the period of three calendar months from the date of service of this Notice.

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.

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 page(s) are executed by Mr Kelly, legal member of the Tribunal, at Edinburgh on 29th August 2023 in the presence of the undernoted witness:-