

Housing and Property Chamber

First-tier Tribunal for Scotland



Repairing Standard Enforcement Order

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

Housing (Scotland) Act 2006 Section 24

Chamber Ref: FTS/HPC/RT/22/1390

The Property: 41 Mariner Road, Camelon, FK1 4JR (“The Property”)

Land Register of Scotland Title Number: STG56545

The Parties:

Falkirk Council, Private Sector Housing, The Forum, Callendar Business Park, FK1 1SR (“the Third-Party Applicant”); and

Mr Andrew Aylwin, 41 Mariner Road, Camelon, FK1 4JR (“the Tenant”); and

Mr Calum Watt, 128 Henderland Road, Bearsden, Glasgow, G61 1JA (“the Landlord”)

Tribunal Members:

G McWilliams- Legal Member

S. Hesp - Ordinary Member

The Order

1. Whereas in terms of their Decision dated 9th May 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 installations in the Property for the supply of gas and electricity are in reasonable state of repair and in proper working order and that the Property meets the tolerable standard, the Tribunal therefore decided that the Property does not meet the Repairing Standard specifically in terms of Section 13 (1) (c) and (h) of the 2006 Act.

- 2. The Tribunal now requires the Landlord to carry out such actions and works as are necessary for the purpose of ensuring that the Property meets the Repairing Standard all in terms of Section 13(1) (c) and (h) of the 2006 Act and that any damage caused by the carrying out of any work in terms of this Order is made good; and**
- 3. Specifically the Landlord is ordered to do the following:-**
 - a) The Landlord is to carry out such actions and works, and to provide appropriate documentation, to ensure that the Property complies with the Repairing Standard. Specifically the Landlord has to:-**
 - i) Instruct a suitably qualified SELECT, NAPIT or NICEIC registered electrician to carry out a certified electrical inspection and testing of the entire electrical installation of the Property and exhibit a satisfactory EICR, containing no Category C1 or C2 terms of disrepair, and satisfactory Portable Appliance Testing (“PAT”) Certificate to the Tribunal; and**
 - ii) Instruct a suitably qualified Gas Safe engineer to inspect all the gas appliances in the Property and provide the Tribunal with a satisfactory, complete Gas Safety Certificate.**
 - b) In view of the nature of the failure to meet the Repairing Standard as defined in the 2006 Act, and the remedial actions and works which require to be carried out, the Tribunal determines that the RSEO requires to be complied with by 30th June 2023.**

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.

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 2006 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, typewritten on this and the preceding page, are executed by Gerald McWilliams, Solicitor, Legal Member of the Tribunal, at Glasgow on 9th May 2023, before this witness:-

**Carol Cassidy- Witness
Secretary**

G McWilliams Legal Member

