

Housing and Property Chamber First-tier Tribunal for Scotland



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

**REPAIRING STANDARD ENFORCEMENT ORDER: Housing (Scotland) Act 2006
section 24(2)**

Chamber Ref: FTS/HPC/RP/19/4005

Sasines Description: Allanaha Cottage, Cawdor Road, Nairn, which subjects form part and portion of ALL and WHOLE the subjects described in Disposition by Walter Lyle and Margaret Lyle to Walter Lyle, Margaret Lyle and Walter Gilmour Lyle recorded in the Division of the General Register of Sasines for the County of Nairn on 11th January 2005.

House address: Allanaha Cottage, Cawdor Road, Nairn, IV12 5QU (“the House”)

Parties:

Miss Violet Jane MacKay, Allanaha Cottage, Cawdor Road, Nairn, IV12 5QU (“the Tenant”)

Mrs Margaret Lyle, Wester Delnies Farmhouse, Ardersier Road, Nairn (“the Landlord”)

NOTICE TO

Mrs Margaret Lyle, Wester Delnies Farmhouse, Ardersier Road, Nairn

Whereas in terms of their decision dated 15th September 2021, the First-tier Tribunal for Scotland (Housing and Property Chamber) has determined that the Landlord has failed to comply with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 and in particular the Landlord has failed to ensure that:

1. 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;
2. The installations in the House for the supply of water, gas and electricity and for sanitation, space heating and heating water are in a reasonable state of repair and in proper working order.
3. The fixtures, fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order.

4. 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 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. Instruct a roofing contractor to investigate and address the problems with the ponding of water on the flat roof, with particular regard to the junction with the pitched roof, and water ingress into the attic.
2. Repair or replace the storage heater in the hallway and carry out investigations as to whether a source of heating in the kitchen would help to alleviate the problems with damp and condensation in the House.
3. Repair or replace the extractor fan in the kitchen to ensure it is in a reasonable state of repair and in proper working order.
4. Instruct an investigation and report from a timber/damp proofing specialist in relation to the overall condition of the House, including the damp within the bathroom and bedrooms, having particular regard to the subsite below the floors; and thereafter, to carry out such works as are required to ensure the House meets the tolerable standard.
5. Take such reasonable steps as are required to ensure that the septic tank is in a reasonable state of repair and in proper working order.
6. Provide an updated EICR to the Tribunal when all works have been attended to. This must address whether the provision in the Property for detecting fires and for giving warning in the event of fire or suspected fire meets with current regulations.
7. Provide an up-to-date Energy Performance Certificate to the Tribunal when all works have been attended to.

The Tribunal orders that the works specified in this Order must be carried out and completed within a period of four 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.

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 Property at any time during which a RSEO has effect in relation to the Property. This is in terms of Section 28(5) of the Act.

In witness whereof these presents typewritten on this and the preceding two pages are executed by Helen Forbes, Chairperson of the Tribunal at Inverness on 18th September 2021 before this witness Ishbel Wright, 20 Ardhholm Place, Inverness

I Wright

H Forbes

_____ witness _____
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_____ chairperson