

# Housing and Property Chamber

## First-tier Tribunal for Scotland

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### 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/17/0339

**19 King Street, Stranraer, DG9 7JU**  
("The property")

The Parties:-

**Dumfries and Galloway Council**, Community & Customer Services,  
Strategic Housing Services, Ailsa House, Sun Street, Stranraer, DG9 7JL  
("the third party applicant")

**Stuart Alexander Adams**, Dunragit Home Farm, Dunragit, Stranraer, DG9 8PH  
("the landlord")

#### Tribunal Members:

Adrian Stalker (Chairman) and Donald Wooley (Ordinary Member)

Whereas in terms of their decision dated 15 December 2017, the First-tier tribunal for Scotland (Housing and Property Chamber) ('the tribunal') determined that the landlords had 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 landlords had failed to ensure at all times during the tenancy, that:-

- a) the house is wind and water tight and in all other respects reasonably fit for human habitation (section 13(1)(a));
- b) 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 (section 13(1)(c));
- c) any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order (section 13(1)(d));

- d) the house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire (section 13(1)(f)); and
- e) the house has satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health (section 13(1)(g)).

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 carry out the following work:

- 1) Reposition the carbon monoxide monitor in the kitchen, so as to comply with the Scottish Government Statutory Guidance for the provision of Carbon Monoxide alarms in private rented housing, the requirements of which are summarised in paragraph 14 of the tribunal's decision or provide written confirmation from the manufacturers that the monitor has been installed in accordance with their specified recommendations.
- 2) To instruct a suitably qualified electrical contractor to install in the property: (a) at least one functioning smoke alarm in the ground floor living room; (b) at least one functioning smoke alarm in the first-floor landing; and (c) a heat alarm in the kitchen; all of the alarms being interlinked and mains powered in accordance with the Revised Domestic Technical Handbook guidance and the Scottish Government revised statutory guidance on the requirements for smoke alarms, the requirements of which are summarised in paragraph 15 of the tribunal's decision.
- 3) Repair or replace the ground floor living room window unit, such that the said unit is in a reasonable state of repair and in proper working order.
- 4) Repair or replace the ventilation device above the gas hob in the kitchen, such that there is an appliance in the kitchen above the gas hob, for the purpose of removing airborne grease, combustion products, fumes, smoke, odours, heat, and steam from the air by evacuation of the air and filtration, which is in a reasonable state of repair and in proper working order. In the event that the existing ventilation device is repaired, rather than replaced, the landlord is also to renew the existing damaged fascia with a suitably manufactured heat and fire resistant replacement.
- 5) Renew the damaged cabinet fittings on either side of ventilation device above the gas hob in the kitchen with suitably positioned fire and heat resistant replacements.
- 6) Supply the tribunal with an appropriate installation certificate, provided by a suitably qualified kitchen installer, confirming that the re-positioning of

the cabinets and associated fittings is in accordance with the manufacturer's specification in relation to minimum distance from and height above a gas fired cooking hob.

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

**Further**, in light of paragraphs 10(vi), 17 and 18 of its decision, the tribunal requires the landlord to produce to the office of the tribunal and the applicant a Gas Safety Certificate, completed by a qualified Gas Safe Registered Engineer, confirming that the installations for the supply of gas at the property are in a reasonable state of repair and in proper working order. Where any part of the gas installation in the property is not in a reasonable state of repair and in proper working order, the tribunal requires the landlord to carry out such work as is necessary to bring the gas installation into a satisfactory state of repair and in proper working order, within the period of **six weeks** from the date of service of this Notice.

**Further**, in light of paragraphs 10(xii), 17 and 18 of its decision, the tribunal requires the landlord to produce to the office of the tribunal an Electrical Installation Condition Report ("EICR") completed by a suitably competent person, in accordance with paragraphs 10 to 20 of the Scottish Government Statutory Guidance On Electrical Installations And Appliances In Private Rented Property ("the Guidance"). In the event that the EICR identifies any items specifically categorised as C1 or C2 under "section K" in the report where any part of the electrical installation in the property is not in a reasonable state of repair and in proper working order, the tribunal requires the landlord to carry out such work as is necessary to put that electrical installation in a satisfactory state of repair and in proper working order, within the period of **six weeks** from the date of service of this Notice.

**In terms of section 46 of the Tribunals (Scotland) Act 2014, a party 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 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 Adrian Stalker, advocate, Advocates Library, Parliament House, Edinburgh, chairperson of the tribunal at Edinburgh on 15 December 2017, before this witness:-

A Stalker

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witness  
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