

Housing and Property Chamber
First-tier Tribunal for Scotland



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

Repairing Standard Enforcement Order under Section 24(1) of the Housing (Scotland) Act 2006

Chamber Ref: FTS/HPC/RP/0473

Re: Property at 2 Kirkton, Appin, PA38 4DL ("the Property")

Parties:

Ms Lorna Macdonald, Mr Robert Macdonald, Mossend, Appin, PA38 4BG ("the Landlord"); and

Ms Joanne McCaskell, 2 Kirkton, Appin, PA38 4DL ("the Tenant")

Tribunal Members:

Ruth O'Hare (Legal Member) and Robert Buchan (Ordinary Member)

Whereas in terms of their decision dated ^{20 September 2023} ~~DRAFT~~, 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:-

- (i) 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;
- (ii) 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; and
- (iii) 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:-

- (i) Instruct a damp specialist to investigate the source of damp within the property and submit to the Tribunal for further consideration;
- (ii) Instruct Home Energy Scotland to carry out an assessment of the property and submit to the Tribunal for further consideration;
- (iii) Repair the holes in the ceilings;
- (iv) Repair and repaint the facings to the front and rear of the property;
- (v) Clear the gutters to ensure proper drainage; and
- (vi) Refix the radiator in the upstairs bedroom to the wall and cap the electric plug socket.

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

Right of Appeal

In terms of Section 46 of the Tribunal (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 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 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 Ruth O'Hare, Chairperson, c/o Glasgow Tribunals Centre, 20 York Street, Glasgow, G2 8GT before this witness:-

R O'Hare

M Colquhoun

witness

Chairperson

MICHAEL COLQUHOUN
C/O GLASGOW TRIBUNALS CENTRE
20 YORK STREET
GLASGOW
G2 8GT