

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**

Re: 24 Hatton Terrace, Carfin, Motherwell, ML14DL ("the House")

Title number: LAN 113283

Chamber Ref: FTS/HPC/RP/23/1544

Miss Sarah Marie Smith, residing at the House ("the Tenant")

**Mr Daniel Joseph Falls, 27 Kingsley Court, Uddingston, G71 6QH ("the
Landlord")**

Tribunal Members:

Nicola Weir (Legal Member) and Andrew Taylor (Ordinary Member)

Whereas in terms of their decision dated 5 October 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 meets the repairing standard with reference to the following provisions of Section 13 of the Act, as amended:-

- (a) the house is wind and watertight and in all other respects reasonably fit for human habitation;
- (c) 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;
- (d) any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order; and
- (f) the house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.

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:-

- (1) To make good the damaged plaster and decoration in the hall and kitchen caused by water penetration from the upstairs flat, said remedial works to include any required treatment to eradicate mould to ensure that the House is in a reasonable state of repair, wind and watertight and in all other respects reasonably fit for human habitation;
- (2) To refix the shower head riser to the bathroom wall to ensure that any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order;
- (3) Given that the Electrical Installation Condition Report (EICR) dated 29 August 2023 and 1 September 2023 provided by the Landlord states that the electrical installation is "Unsatisfactory" and cites a number of C2 faults that require rectification, to engage the engineer who carried out the testing to rectify those faults and provide detailed written evidence, to the Tribunal and the Tenant, from the engineer that the faults have been rectified and that the condition of the installation is now "Satisfactory", in order to ensure that the installations in the house for the supply of electricity are in a reasonable state of repair and in proper working order; and
- (4) Given that the EICR provided by the Landlord also highlights that the provision for fire detection is not in accordance with current standards, to provide and install smoke detection and alarm equipment in accordance with the Housing (Scotland) Act 2006 (Modification of the Repairing Standard) Regulations 2019 and the Housing (Scotland) Act 1987 (Tolerable Standard) (Extension of Criteria) Order 2019 in order to ensure that the house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.

The Tribunal order that the works specified in this Order must be carried out and completed within a period of **6 weeks** from the date of this Order.

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 typewritten on this and the preceding page are executed by Nicola Weir, Legal Member of the Tribunal, at Glasgow on 5 October 2023 in the presence of the undernoted witness:-

F Weir

N Weir

Finay Weir

witness

Legal Member

name in full