

**Housing and Property Chamber**  
First-tier Tribunal for Scotland



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland  
(Housing and Property Chamber) under Section 25(1) of the Housing  
(Scotland) Act 2006**

**Chamber Ref: FTS/HPC/RP/22/3981**

**Re: Property at 293 Broomhill Road, Aberdeen, AB10 7LN (“the Property”) under  
Title No: ABN93375**

**Parties:**

**Dr James de Kauwe and Mrs Alice De Kauwe, 293 Broomhill Road, Aberdeen,  
AB10 7LN (“the Tenant”)**

**Mr Grant Campbell and Mrs Lynne Campbell, 114 Wittenburgerweg,  
Wassenaar, Netherlands, 2244CE (“the Landlord”)**

**Tribunal Members:**

**Ruth O'Hare (Legal Member) and Angus Anderson (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the  
Tribunal”) unanimously determined that the works required by the Repairing  
Standard Enforcement Order (“RSEO”) dated 5 June 2023 were no longer  
necessary and therefore revoked the order.**

**Background**

- 1 By application to the Tribunal, the Applicant applied to the Tribunal for a determination as to whether the Landlord had failed to comply with the duties imposed by Section 14(1)(b) of the Act.
- 2 The application stated that the Tenant considered the Landlord had failed to comply with their duty to ensure that the house meets the Repairing Standard in that they had failed to ensure that:-



- (i) The house is wind and watertight and in all other respects reasonably fit for human habitation;
- (ii) 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;
- (iii) 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;
- (iv) The house has satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health; and
- (v) The house does not meet the tolerable standard.

The areas in respect of which the Tenant claimed the Landlord had failed to comply for the above reasons are more particularly described in paragraphs 4 to 20 of this decision.

- 3 An inspection took place on 16 February 2023, followed by a hearing on 23 February 2023. The Tribunal subsequently determined that the property did not meet the Repairing Standard in terms of the following provisions of the Act:
- (i) In respect of section 13(1)(a), the house is not wind and watertight and in all other respects reasonably fit for human habitation;
  - (ii) In respect of section 13(1)(b), the structure and exterior of the house (including drains, gutters and external pipes) are not in a reasonable state of repair and in proper working order; and
  - (iii) In respect of section 13(1)(c), the installations in the house for the supply of water, gas and electricity and for sanitation, space heating and heating water are not in a reasonable state of repair and in proper working order.
- 4 The Tribunal accordingly made a Repairing Standard Enforcement Order requiring the Landlord to:-
- (a) Instruct a chartered building surveyor to inspect the property with particular regard to the sources of current and previous water ingress and submit the report to the Tribunal for consideration and further determination prior to carrying out such works as are necessary to resolve the issue;



- (b) Instruct a damp specialist to investigate the source of the damp in the attic bedroom and submit the report to the Tribunal for consideration and further determination prior to carrying out such works as are necessary to resolve the issue;
  - (c) Instruct a Gas Safe Registered engineer to identify the source of the loss of pressure in the heating installation and submit the report to the Tribunal for consideration and further determination prior to carrying out such works as are necessary to resolve the issue;
  - (d) Replace or repair the French doors and adjacent panels to the rear of the property such that they are in a reasonable state of repair and in proper working order; and
  - (e) Carry out such redecoration works as are necessary following the works required at (a) to (c).
- 5 On 19<sup>th</sup> July 2023 the Tribunal received an email from the Landlord advising that the tenancy had terminated and the Tenants had moved to London. The Tenants subsequently confirmed this. The Landlord followed this up with confirmation that the property would no longer be let. He produced a letter from his letting agent confirming that they were no longer instructed, together with confirmation that the council tax and utility bills had now been transferred into the Landlord's name. It was his intention to return to occupy the property. It would no longer be tenanted.

#### Reasons for Decision

- 6 The Tribunal was satisfied that it had sufficient information upon which to reach a decision. Having regard to the representations made by the Landlord and the Tenants, supported by confirmation from the Landlord's agent, the Tribunal accepted the statements made by the Landlord and concluded that they had no intention to let the property again on the basis that they were returning to occupy it on a permanent basis. The Tribunal therefore concluded that the works required by the RSEO were no longer necessary as the property was no longer tenanted and it would not be in the public interest to continue with the order.
- 7 The decision of the Tribunal was unanimous.



## 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 is abandoned or determined.

12 September 2023

**Legal Member/Chair**

**Date**



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

**Notice of Revocation (RSEO) under section 25(1) of the Housing (Scotland) Act 2006**

**Chamber Ref: FTS/HPC/RP/22/3981**

**Re: Property at 293 Broomhill Road, Aberdeen, AB10 7LN (“the Property”) under Title No: ABN93375**

**Parties:**

**Dr James de Kauwe and Mrs Alice De Kauwe, 293 Broomhill Road, Aberdeen, AB10 7LN (“the Tenant”)**

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**Tribunal Members:**

**Ruth O'Hare (Legal Member) and Angus Anderson (Ordinary Member)**

Whereas in terms of their decision dated 5 June 2023, the First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the works required by the Repairing Standard Enforcement Order (“RSEO”) dated 5 June 2023 were no longer necessary, the Tribunal therefore determined to revoke the RSEO.

**Right of Appeal**

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First-tier Tribunal for Scotland



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 at Glasgow on 12 September 2023 before this witness:-

\_\_\_\_\_ witness

\_\_\_\_\_ Chairperson