



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) in terms of Section 26 of the Housing
(Scotland) Act 2006**

Reference number: FTS/HPC/RP/22/1116

**Re: Property at Flat 3/2, 95 Kilmarnock Road, Shawlands, Glasgow G41 3YR
("Property")**

The Parties:

**Adam Murray, Flat 3/2, 95 Kilmarnock Road, Shawlands, Glasgow G41 3YR
("Tenant")**

**Blanefield Holdings Limited, 9A High Street, Stewarton, Kilmarnock KA3
5BP("Landlord")**

**Stewart Residential, 9A High Street, Stewarton, Kilmarnock KA3 5BP
("Landlord's Representative")**

Tribunal Members :

Joan Devine (Legal Member); Greig Adams (Ordinary Member)

DECISION

The Tribunal determined that the Landlord has failed to comply with the Repairing Standard Enforcement Order dated 8 July 2022 ("RSEO") within the period of time set out in the RSEO. Notice of the failure will be served on the local authority. The Tribunal also determined to make a rent Relief Order. The Tribunal's decision is unanimous.

Background

The Tribunal issued a decision on 8 July 2022 requiring the Landlord to comply with the RSEO relative to the Property issued by the Tribunal on the same date. The RSEO required the Landlord to:

1. Repair all defective, damaged or boss cement based repairs, defective pointing and defective or eroded sandstone where voids are present, integrity of the stone is affected or where water penetration can occur including where the depth of damage extends beyond 20mm from the original surface of the stone on the gable wall of the Property.
2. Rectify all structural cracking inside the Property and decorate to make good as required following completion of the works.

The Tribunal ordered that the works specified in this order must be carried out and completed within the period of 12 weeks from the date of service of the RSEO.

A re-inspection was carried out on 6 December 2022. The inspection extended to a survey of the specified works detailed within the RSEO. A copy of the re-inspection report is annexed hereto. The report narrates that there was no evidence of any external remedial works having been progressed to the gable elevation and no remediation of any internal cracking had been progressed, nor had any redecoration works been undertaken.

A direction was issued to the Parties in which the Tribunal stated: *The Tribunal would now intend to make a decision that the Landlord has failed to comply with the RSEO. In so doing the Tribunal must also decide whether to make a Rent Relief Order. The Tribunal would propose to determine these issues without the need for a hearing. If either party wishes to make written representations in respect of these matters, or alternatively, wishes to request an oral hearing then such submissions / request must be made in writing no later than 31 January 2023.* Neither the Tenant or the Landlord submitted any response to the direction. In those circumstances the Tribunal determined to proceed without fixing an oral hearing.

Reasons for Decision

The Tribunal unanimously determined that the Landlord has failed to comply with the RSEO within the period of time for completion of the works set out in the RSEO. No attempt has been made to carry out the necessary works.

The Tribunal unanimously determined to make a rent relief order in terms of section 27 of the Housing (Scotland) Act 2006. The Tenant has complained about the noise from birds nesting in the wall and that the building is not wind and watertight. The tenant is not however excluded from using any part of the Property. The Tribunal determined that a reduction of rent in the sum of 25% would be reasonable and proportionate.

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.

**Legal Member
10 February 2023**