



**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/22/1502

**Re: Property at 87 Gatehead Road, Crosshouse, Kilmarnock, East Ayrshire, KA2
0JH (“the Property”)**

Parties:

Mr David Reilly (“the Applicant”)

**Mrs Irene Fowler, sometime residing at 1 Plann Road, Kilmarnock, KA2 0EN
 (“the Respondent”)**

**Countrywide and SHH Lettings, 3rd Floor, 26 Springfield Court, Glasgow, G1
3DQ
 (“the Respondent’s Representative”)**

Tribunal Members:

**M McAllister (Legal Member) and D Wooley, Chartered Surveyor,
(Ordinary Member) (“the tribunal”)**

Decision

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (‘the
tribunal’) determines that the Repairing Standard Enforcement Order relative to
the Property dated 5TH September 2022, served on 8TH September 2022 and
subsequently varied should be varied with effect from the date of service of the
Notice of even date with these presents in the following respect:-**

**The period allowed for the completion of the work required by the order is
extended until 25 November 2023.**

Background

- 1. By application dated 18th May 2022, the Applicant applied to the Housing and
Property Chamber of the First-tier Tribunal for Scotland for a determination of
whether the Landlord has failed to comply with the duties imposed by Section**

14 (1) (b) of the Housing (Scotland) Act 2006 as amended ("the 2006 Act"). The application is in terms of Section 22 (1) of the 2006 Act.

2. The application states that the Property does not meet the repairing standard set out Section 13 of the 2006 Act: that the Property is not wind and watertight and in all other respects reasonably fit for human habitation, 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 and that the Property does not meet the tolerable standard. Specifically, the application states that the Landlord has failed to remedy dampness, mould and condensation in the Property, that there is dampness and mould in the porch, bathroom, living room, bedrooms and kitchen. The application states that the majority of kitchen units are unusable and that mould odour is becoming unbearable.

3. On 30th August 2022, the Property was inspected by the tribunal and, following a Hearing, a repairing standard enforcement order ("RSEO") was made in the following terms:

The Landlord was required to:

- 3.1 Obtain a detailed report from a suitably qualified timber and damp treatment contractor confirming both the extent and the source of the dampness and mould throughout the property, together with any remedial action necessary to eradicate the problem. The report should include a detailed specification on any additional ventilation required to address the issue in the main bedroom (rear room right), the living room, the kitchen including wall mounted cupboards, and bathroom within the property. The report should be submitted to the Tribunal.
- 3.2 Complete all recommended repairs in accordance with the specification recommended and redecorate as required.
- 3.3 To replace or repair the lining of the kitchen units which are affected by dampness and/or mould.
- 3.4 The works required by the repairing standard enforcement order require to be completed by 31st October 2022.

Property Reinspection 29 November 2022

4. The members of the tribunal reinspected the Property on 29 November 2022 and determined that some works had been completed and that some were outstanding. The RSEO was varied and required the Landlord to comply with the RSEO by 31 March 2023.

Property Reinspection on 14 June 2023

5. The members of the tribunal inspected the Property on 14 June 2023 and a copy of the ordinary member's re-inspection report including photographs is attached to this Decision. This sets out the works which have been done and identifies matters from the RSEO which were outstanding at the date of the re-inspection.
6. The Applicant was present and the Landlord was represented by Mr Stewart Graham and Ms Laura Rose, both of Countrywide and SHH Lettings.
7. The re-inspection report states that, since the re-inspection of November 2022, no additional remedial action has been taken to address the outstanding mould and damp issues detailed in the report which had been prepared subsequent to that inspection.
8. It was noted that certain works had been completed on the recommendation of Peter Cox, a timber preservation company but that no additional works had been undertaken since the last re-inspection.
9. The attached re-inspection report details area of damp and mould which require attention to ensure compliance with the RSEO.

The Hearing

10. A Hearing was held in Russell House, Ayr on 12 September 2023. The Applicant was present and the Landlord was represented by Mr Stewart Graham of Countrywide and SHH Lettings.

Preliminary Matters

11. Parties confirmed that they had sight of the re-inspection report.
12. It was noted that, prior to the Hearing, the Landlord's agents had obtained a further report from Peter Cox and that this report, dated 30 June 2023, had been submitted to the Tribunal.

The Peter Cox Report

13. Mr Graham confirmed that he had received authority from the Landlord to proceed with the works which Peter Cox had quoted for. He said that he has still to receive a quotation from another contractor for the pre and post contract

works and that he anticipated that the contractor would also quote for works to the kitchen cupboards identified in the Peter Cox report.

14. Mr Graham was directed to the re-inspection report and agreed that this disclosed high readings of damp above the skirting in the larger bedroom. He agreed that the Peter Cox had made no reference to this area within their report and expressed disappointment that it had been omitted. The tribunal noted however that the timeline of releasing the re-inspection report was such that it post dated the Peter Cox inspection on 29 June 2023.

Outcome and Determination

15. Mr Graham said that he intended to obtain authority from the Landlord to have Peter Cox carry out another survey to include the area at skirting level in the bedroom which had been omitted from their previous report.
16. The tribunal indicated that it was not its function to direct how work is to be done and that it was a matter for the Landlord to complete works as necessary to ensure compliance with the RSEO.
17. The tribunal recognised that efforts had been made by the Landlord to comply with the RSEO and that some works had been completed and that others had been quoted for. In terms of Section 25 (3) (b) (i) of the 2006 Act, satisfactory progress has been made in carrying out the work required and the tribunal determined that the RSEO should be varied to extend the time for completion of the works to 25 November 2023.

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.

**M McAllister
Legal Member**

15 September 2023