



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

Reference number: FTS/HPC/RP/24/4431

Re: Property at 12a Coutts Building, Golf Road, Ballater, Aberdeenshire, AB35 5RE (“the Property”)

The Parties:

Mr Samuel Hollands, 12a Coutts Building, Golf Road, Ballater, Aberdeenshire, AB35 5RE (“the Tenant”)

Mrs Lucinda Fernie, Polmonier Cottage, Ballater, AB35 5TB (“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 it would be reasonable to vary the repairing standard enforcement order (“RSEO”) dated 8 October 2025 to require the Landlord to complete the recommended works as outlined in the report from Wise Property Care dated 22 September 2025 and to extend the period for completion of the works by one month.

The RSEO is therefore varied under section 25(1)(a) of the Housing (Scotland) Act 2006 (“the 2006 Act”).

Background

Reasons for Decision

- 1 On 8 September 2025 the Tribunal determined that the Landlord had failed to comply with the duty under section 14(1)(b) of the 2006 Act and made an RSEO requiring the Landlord to:-

“Instruct a report from a damp and condensation specialist, submit the report to the Tribunal for consideration, and carry out any works thereafter as directed by the Tribunal. The report should identify the cause of any water ingress or condensation, and include remedial recommendations, where appropriate.”

- 2 On 30 September 2025 the Tribunal received a survey report from the Landlord's representative, Laurie and Co, from Wise Property Care dated 22 September 2025. The report included detailed recommendations to address the damp and mould within the property.
- 3 On 12 October 2025 the Tribunal received an email from the Tenant requesting a rent relief order on the basis that the Landlord had failed to comply with the RSEO.

Reasons for decision

- 4 Section 25(1) of the 2006 Act states "*Where the First-tier Tribunal has made a repairing standard enforcement order, it may, at any time – (i) vary the order in such manner as it considers reasonable*".
- 5 In this case the RSEO required the Landlord to instruct a report from a damp and condensation specialist and submit the report to the Tribunal for consideration prior to carrying out the works. Whilst the Tribunal can appreciate the Tenant's frustration with the lack of progress, in terms of the RSEO the Landlord had an obligation to await further direction from the Tribunal before proceeding any further. The Tribunal therefore determined that it would be reasonable to vary the RSEO at this time to now require the Landlord to complete the works as specified in the Wise Property Care report, with an extension of the period for completion of the works.
- 6 The Tribunal would however wish to point out that the report does not appear to reference the Tribunal's findings in relation to high moisture levels in the lower section of the gable wall at the skirting in the front room. The report recommends removal of the wall linings one metre down from the ceiling. The Tribunal would therefore expect to receive confirmation from Wise Property Care that they are satisfied with the condition of the lower section of the wall in the front room, or alternatively this should be included in the scope of works to be taken forward.
- 7 The Tribunal therefore determined to vary the RSEO under section 25(1) of the 2006 Act. 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 appeal is abandoned or determined.

R O'Hare

23 October 2025

Legal Member/Chair

Date