

Housing and Property Chamber First-tier Tribunal for Scotland



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

STATEMENT OF DECISION: Housing (Scotland) Act 2006 Sections 26, 27 & 28

Land Register Title No: ABN94577

Chamber Ref: FTS/HPC/RT/25/0560

Property at 15 Provost Rust Drive, Aberdeen, AB16 7BQ
("the Property")

The Parties:-

Aberdeen City Council, Marischal College, Business Hub 11, Second Floor West,
Aberdeen, AB10 1AB
("the Third Party")

Mrs Sylvia Tough, 15 Provost Rust Drive, Aberdeen, AB16 7BQ
("the Tenant")

Mr Callum Watt, CPW Investments, Flat 29, Whittinghame Court, 1350 Great Western
Road, Glasgow, G12 0PG
("the Landlord")

Tribunal Members:

Gillian Buchanan (Chair) and Angus Anderson (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the tribunal') having made such enquiries as it saw fit for the purposes of determining whether the Landlord has complied with the Repairing Standard Enforcement Order ("RSEO") in relation to the Property, determined that (i) the Landlord has failed to comply with the RSEO in terms of Section 26 of the Housing (Scotland) Act 2006 ("the said Act"), (ii) a Notice of Failure to Comply with the RSEO should be served on the relevant local authority within which the Property is situated, and (iii) the matter should be reported to the Police for consideration for prosecution under Section 28 of the said Act.

Background

1. Reference is made to the determination of the tribunal dated 25 August 2025 which determined that the Landlord had failed to comply with the duty imposed by Section 14(1)(b) of the Act in that he had failed to ensure that the Property met the Repairing Standard. The works required by the RSEO were: -
 - (i) To engage a suitably qualified and registered SELECT or NICEIC electrical contractor or suitably skilled electrician to carry out a condition check on the electrical installations of the Property, including the immersion heater, and thereafter to undertake all works required to ensure that the entire system is safe and in proper working order and thereafter to prepare an electrical installation condition report (EICR).
 - (ii) On completion of the works referred to in 6(i) above to provide to the tribunal a copy of the (EICR) which describes the system overall as satisfactory with no items marked as Category 1 or Category 2.
 - (iii) To engage a suitably qualified and registered SELECT or NICEIC electrical contractor or suitably skilled electrician to install an interlinked system of fire and smoke alarms and adequate carbon monoxide alarms and thereafter to provide to the tribunal a statement from the suitably qualified electrical contractor or electrician describing the provision of smoke, heat and carbon monoxide detection within the property and that confirming that it complies with the Scottish Government's Guidance relating to the Tolerable Standard on satisfactory fire detection and satisfactory carbon monoxide detection.
 - (iv) To engage a suitably qualified and Gas Safe registered engineer to carry out a condition check on the gas installations in the Property and thereafter to undertake all works required to ensure that the gas installations are safe and in proper working order, including the gas fire in the lounge, and thereafter to prepare a valid Gas Safety Record.
 - (v) On completion of the works referred to in (iv) above to provide to the tribunal a copy of the Gas Safety Record.

The RSEO gave the Landlord 30 days to carry out the works.

Hearing

2. On 11 November 2025 the tribunal held a Hearing which took place by telephone conference. None of the parties attended or were represented. The Landlord received intimation of the Hearing by letter dated 20 October 2025. By email dated 11 November 2025 Claire Reith for the Third Party indicated the Third Party would not be attending the Hearing.
3. The tribunal was satisfied that the requirements of Rule 24(1) of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ("the Rules") had been satisfied relative to the Landlord having received notice of the Hearing and determined to proceed in the absence of the Landlord in terms of Rule 29.
4. Following service of the RSEO the Landlord wrote to the tribunal by letter dated 25 September 2025 stating –

"Further to your letter dated 22 September 2025 I wish to confirm the following.

I have lost my business as I was in severe financial difficulty and have had my properties re-possessed including the above property.

The property is being sold at auction with sitting tenants and I am therefore no longer the owner of the property so cannot carry out any repairs at the property as I no longer own it."

5. By letter dated 20 October 2025 the tribunal contacted the Landlord and stated:-

"The Tribunal has reviewed your letter of 25 September. Whilst you state the property in question has been repossessed, please provide documentary evidence to that effect. The Tribunal expects you to be able to provide the Court judgement in terms of which the Sheriff grants possession of the property to the security holder. Formal title to the property remains in your name and without documentary evidence that repossession proceedings have been raised and a Court order granted the Tribunal will continue with the Repairing Standards application against you."

The Landlord did not respond. Title to the Property remains in the Landlord's name.

6. The tribunal has not received from the Landlord the documentation that requires to be produced in terms of the RSEO.

Reasons for Decision

7. In terms of Section 26(1) of the Act it is for the tribunal to decide whether a landlord has complied with an RSEO. In terms of sub-section (2), where the tribunal determines that a landlord has failed to comply with an RSEO, the tribunal must (a) serve notice of the failure on the local authority; and (b) decide whether to make a Rent Relief Order ("RRO").
8. The Landlord has indicated by his letter of 25 September 2025 that he has not done the works required by the RSEO and the documentation that requires to be produced to the tribunal in terms of the RSEO is outstanding. Failure to comply with the RSEO is a serious matter. Health and safety issues arise and the Tenant may be at risk.
9. The Tribunal considered whether it would be appropriate to vary the RSEO to allow the Landlord further time to comply with it. In light of the Landlord's letter of 25 September 2025 he clearly has no intention of complying with the RSEO. His position on repossession of the Property is unsubstantiated and therefore no such variation is appropriate.
10. The tribunal determined that the Landlord has failed to comply with the RSEO. Accordingly the tribunal is obliged to serve notice of the failure on the local authority and resolved to do so.
11. The tribunal then decided whether or not to make an RRO. The tribunal determined that it was appropriate to make an RRO.
12. The tribunal also considered the terms of Section 28 of the Act. Sub-section (1) specifies that a landlord who, without reasonable excuse, fails to comply with an RSEO commits an offence. The Landlord has offered no explanation as to his failure to complete the outstanding works nor any indication as to when they will be completed. Accordingly, in the circumstances, the tribunal was of the view that Section 28(1) had been breached and therefore also resolved to report the matter to the Police for consideration for prosecution.

Decision

13. The tribunal determined that in terms of the Act the Landlord had failed to comply with the RSEO. The tribunal determined to serve a Notice of Failure to Comply with the RSEO on the relevant local authority within which the Property is situated and to report the matter to the Police for consideration for prosecution.
14. The tribunal made an RRO.
15. The decision of the tribunal was unanimous.

A landlord, tenant or third party applicant aggrieved by the decision of the tribunal may seek permission to appeal from the First-tier Tribunal on a point of law only 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 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.

19 November 2025