

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 Section 26(1)

Chamber Ref: FTS/HPC/RP/25/0071

Title Number: LAN227530

12B Regent Way, Hamilton, ML3 7AJ (“the Property”)

Parties:

Sofia Connor, formerly of 12B Regent Way Hamilton, ML3 7AJ (“the former Tenant.”)

JWR Holdings Ltd, 52 Southburn Road, Airdrie (“the Landlord”)

Tribunal Members:

Josephine Bonnar (Legal Member) and Nick Allan (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”) dated 1 December 2025, determined that the Landlord has failed to comply with the RSEO.

Background

1. By application dated 8 January 2025, the former Tenant applied to the Tribunal in terms of Section 22 of the Housing (Scotland) Act 2006. She stated that the Landlord had failed to meet his obligations in terms of the Act by failing to ensure that the property meets the repairing standard. In particular, mould, mould mites and dampness were present throughout the property and communal space, dry rot was growing and hanging by the electrical board above the main entry in the communal hallway (a health and safety hazard), the bathroom door was swollen due to dampness, the door handle was loose, and the kitchen blind thread had snapped. She stated that the property had become uninhabitable.

2. The parties were notified that the Tribunal would inspect the property on 26 August 2025 at 10am and that a hearing would take place at Brandongate in Hamilton at 11.30am on the same date. On 14 January 2025, the former tenant notified the Tribunal that she had given notice to the Landlord and that the tenancy would terminate on 11 February 2025. On 1 July 2025 the Tribunal issued a Minute of continuation in terms of the 2006 Act and the Landlord was notified that the inspection and hearing would proceed.
3. The Tribunal attended at the property on 26 August 2025. Access was provided by a the letting agent, Mr Alexander. Mr Rafferty, a director of the Landlord, also attended. The property had been re-let, and the new tenant was not present. The Tribunal was advised that the new tenant had agreed to access being provided for the inspection. The Hearing took place at 11.30am. Only Mr Rafferty attended. During the Hearing Mr Rafferty told the Tribunal that he could provide a copy of a report from Russell Preservation which would confirm that the dampness within the communal hallway is due to water ingress from the roof of an adjoining property. He also said that the owner of that property would not allow them to arrange for roof repairs to be carried out to address the water ingress and that they lacked the necessary rights of access to deal with the matter themselves. The report was not submitted following the hearing or in response to a reminder issued by the Tribunal on 12 September 2025. On 21 October 2025, the Tribunal issued a direction. This directed the Landlord to provide a copy of the Russell Preservation Report and evidence that they lacked the necessary rights of access to have work carried out to address the dampness affecting the common parts of the building. The Landlord did not respond to the direction and did not provide a copy of a report from Russell Preservation or evidence in relation to the alleged lack of access rights
4. On 1 December 2025, the Tribunal determined that the communal hallway at the property did not meet the repairing standard and issued a repairing standard enforcement order ("RSEO"). In terms of the order, the Landlord is required to carry out all necessary repairs to ensure that the common parts of the property are free from water ingress, damp and mould. The Landlord was given 10 weeks to complete the work.
5. The decision with statement of reasons and RSEO were issued to the Landlord on 9 January 2026.
6. On 28 February 2026, the Landlord was notified that the Tribunal would re-inspect the property on 23 April 2026 at 10am and that access was required. The Landlord was also notified that a hearing would take place by telephone conference call on the same date at 12 noon. The Tribunal attended at the property on 23 April 2026. The Landlord was not present and was not represented. The Tribunal was able to inspect the communal hallway as the door to it was open. The Hearing took place at 12 noon, but no one attended.
7. The property is a flat above a shop in the centre of Hamilton. At the re-inspection, the Tribunal noted that the communal hallway is in the same condition as at the first inspection. Sections of the wall along the right-hand side of the communal hallway are saturated, with peeling plaster. The wall at

the foot of the stairs which lead to the flat and the ceiling are also affected by dampness. There is evidence of water ingress on the stair landing outside the flat.

8. A re-inspection report, including photographs, was issued to the Landlord on 12 May 2026. He was invited to make representations regarding the report by 26 May 2026 but failed to do so.

Findings in Fact

9. The common close/communal hallway and stairs at the property are affected by water ingress and/or dampness and mould.
10. The Landlord has not carried out any repairs to address the water ingress, dampness and mould which is affecting the communal areas of the property.

Reasons for Decision

11. The Tribunal considered the condition of the communal hallway and stairs at the property at the re-inspection. The Tribunal noted that they are in the same condition as at the first inspection with no evidence of any repair work having been carried out. The Tribunal also noted that the Landlord failed to provide any evidence of the alleged absence of access rights to carry out the necessary work and also failed to provide a copy of the specialist report which (they said) would confirm the source or cause of the dampness. The Landlord also failed to respond to the re-inspection report or make any further representations.
12. The Tribunal is therefore satisfied that the Landlord has failed to comply with the RSEO and that a decision to that effect should be issued.
13. As the tenancy, which is the subject of the application has terminated, the Tribunal did not require to consider whether a rent relief order in terms of Section 27 of the 2006 Act should be issued.

Decision

14. The Tribunal determined that the Landlord has failed to comply with the RSEO dated 1 December 2025.
15. The decision of the Tribunal is unanimous.

Right of Appeal

A Landlord, Tenant or Third-party applicant 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.

In terms of Section 63 of the Act, 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.

s

J Bonnar

1 June 2026