Housing and Property Chamber
First-tier Tribunal for Scotland

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

Statement of Decision: Sections 26(1) & 27 of the Housing (Scotland) Act 2006 ("the Act")

Chamber Ref: FTS/HPC/RP/25/2990

Title Number: MID84957 (title sheet updated 10 October 2024)

Re: Ground floor Flat 1, 71 Clermiston Road, Edinburgh, EH12 6UY ("the House")

The Parties:

Ms. Victoria Ruthven, Ground floor Flat 1, 71 Clermiston Road, Edinburgh, EH12 6UY ("the tenant")

Mr. Geoffrey Bain, Flat 1046, Inverleith Gardens, Edinburgh EH3 5QF ("the landlord")

Tribunal Members:

Susan Christie (Legal Member)

Sara Hesp (Surveyor/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 20 February 2026, determined that the Landlord has failed to comply with the RSEO. The tribunal further imposed a rent relief order of 90% of the monthly rent due. The tribunal determined that a Notice of that failure should be served on the local authority in whose area the House is situated in terms of Section 26(2)(a) of the Act.

Background

1. On 24 February 2026 the First-tier Tribunal for Scotland (Housing and Property Chamber) ("the tribunal") issued a Decision requiring the Landlord to comply with the Repairing Standard Enforcement Order('RSEO') made by the tribunal dated 20 February 2026.
2. The RSEO required the Landlord to: -
   i. Obtain an investigative damp survey of the House from a suitably competent Damp Specialist to investigate the pervasive damp issues throughout the House; and provide the First-tier Tribunal for Scotland (Housing and Property Chamber) with the Report and findings, so that further Direction as to the works required can be made.
   ii. Repair or replace the cupboard doors in the main bedroom so that they can freely open and close.
   iii. Repair the shower room door to ensure it opens and closes properly and replace the lock with one that operates to lock the door safely.
   iv. Replace the broken tiles in the shower; re-grout the shower; and renew the shower sealant in the shower room.
   v. Repair or replace the shower doors to run freely in tracks for ordinary operation.
   vi. Replace the shower shelf with one that is in a good state of repair and resistant to water penetration.
   vii. Replace the carpets in the living room, dining room and hallway with carpets that are in a good state of repair and lay flat; and fit a threshold bar in the hallway in a good state of repair.
   viii. Replace the sealant around the kitchen sink so that it is in a reasonable state of repair and in proper working order.
   ix. Repair or replace the left-hand oven in the kitchen so that it is in a reasonable state of repair and in proper working order and is safe.
   x. Repair or replace the couch in the living room with a fire safety certified couch so that is capable of being used safely for the purposes for which it is designed.
   xi. Repair the soil stack to the side elevation of the House so that it is in a reasonable state of repair and in proper working Order.
   xii. Instruct a suitably competent window contractor to inspect and assess the window glass and frames throughout the House to ensure they are in a reasonable state of repair, in proper working order and capable of being opened and closed and are wind and watertight, make appropriate recommendations for works required in compliance; and provide the First-tier Tribunal for Scotland (Housing and Property Chamber) with the Report and findings, so that further Direction as to the works that may be required can be made.

xiii. Instruct a water quality check from Scottish Water on the drinking water supply in the House and provide the First-tier Tribunal for Scotland (Housing and Property Chamber) with the Report and findings, so that further Direction as to the works that may be required can be made.

xiv. Provide the First-tier Tribunal for Scotland (Housing and Property Chamber) with a written Legionella risk assessment from a competent professional person who has assessed the hot and cold-water system and to provide an outline of any control measures required, so that further Direction if required can be made.

xv. Install in the House satisfactory equipment for detecting fire and giving warning in the event of fire or suspected fire by installing one smoke detector in the room most frequently used for general daytime living purposes, one smoke detector in every circulation space, one heat detector in the kitchen of the House; all smoke and heat detectors to be ceiling mounted and interlinked. All in line with the Scottish Government Guidance on the tolerable standard Chapter 16: Satisfactory Fire Detection.

xvi. Instruct a suitably qualified SELECT, NICEIC or NAPIT registered electrician to carry out a certified electrical inspection of the entire electrical installation of the House and all electrical appliances and equipment supplied by the landlord and carry out all necessary works to rectify any identified C1 and C2 categorised areas. To include a separate Report assessing the redundant switches, sockets and ceiling light fittings for safety. Thereafter to provide the First-tier Tribunal for Scotland (Housing and Property Chamber) with a current satisfactory Electrical Installation Condition Report (EICR), including Portable Appliance Testing (PAT), and the Report on the redundant switches, sockets and light fittings, all prepared by a suitably qualified SELECT, NICEIC or NAPIT registered electrician.

xvii. Instruct a suitably qualified Gas Safe registered engineer to carry out a gas safety inspection of the House. Thereafter to provide the First-tier Tribunal for Scotland (Housing and Property Chamber) with a current Gas Safety Record showing all gas appliances, fittings, chimneys and flues in the House are safe and working efficiently. To include additional written verification that the gas tap in the living room hearth area has been capped off and is safe.

xviii. Install an adequate carbon monoxide detector in the House to comply with current Scottish Government Guidance.

The Tribunal ordered that the works specified in the RSEO be carried out and completed within a period of sixteen weeks of the date of service of the RSEO Notice.

3. The RSEO was served on the Parties on 24 February 2026.

The Re-inspection

4. On 29 July 2026 at 10.30 a.m., the tribunal re-inspected the House.
5. At the time of the Inspection the weather was dry and warm.

6. The tribunal found that the works and actions required to be done in the RSEO not to have been addressed. No work had been completed, and no reports have been supplied to the tribunal.
7. A re-inspection report containing photographs taken during the inspection is attached to this Decision.

Responses

8. On 7 August 2026 the re-inspection report was issued to the Parties.
9. The Applicant responded and provided two documents. The first was a copy letter from The City of Edinburgh Council to the tenant dated 20 March 2025 stating that they have found the owner to be unregistered as a landlord for the property and a Rent Penalty Notice ('RPN'), effective from 21 March 2025, has been issued to the owner which states that the tenant does not have to pay rent as long as the order remains in place. The second document was a written representation form with the Applicant's comment on the position as she understood it: that it was a criminal offence to not comply with a RSEO; that the landlord has not complied with the law and was in contempt; that the landlord continues to harass her for money following on from the RPN; and finally, that she considered another rent relief order would be pointless.
10. The landlord did not respond.

Reasons for the Decision

11. It was noted by the tribunal at re-inspection that: -

a) The Tribunal required the Landlord to obtain an investigative damp survey of the House from a suitably competent Damp Specialist to investigate the pervasive damp issues throughout the House; and provide the First-tier Tribunal for Scotland (Housing and Property Chamber) with the Report and findings, so that further Direction as to the works required can be made. However, the Tribunal has not received any such report.
b) The Landlord was required to repair or replace the cupboard doors in the main bedroom so that they can freely open and close. However, on re-inspection, the condition of the cupboard doors had not changed.
c) The landlord was required to repair the shower room door to ensure it opens and closes properly and to replace the lock with one that operates to lock the door safely. This work has not been carried out.
d) The landlord was required to replace the broken tiles in the shower; re-grout the shower; and renew the shower sealant in the shower room but, this work has not been completed.
e) Although the landlord was required to repair or replace the shower doors to run freely in tracks for ordinary operation, this work had not been carried out.
f) The landlord was required to replace the shower shelf with one that is in a good state of repair and resistant to water penetration but there was no change to its condition on re-inspection.
g) The landlord was required to replace the carpets in the living room, dining room and hallway with carpets that are in a good state of repair and lay flat; and fit a threshold bar in the hallway in a good state of repair. The

photographs taken of the living room carpet; hallway carpet (and threshold bar); and dining room carpet indicate that they have not been replaced.

h) The landlord was required to replace the sealant around the kitchen sink so that it is in a reasonable state of repair and in proper working order, but this work has not been carried out.

i) The landlord was required to repair or replace the couch in the living room with a fire safety certified couch so that is capable of being used safely for the purposes for which it is designed, but the photograph taken confirms that the couch has not been replaced.

j) The landlord was required to repair the soil stack to the side elevation of the House so that it is in a reasonable state of repair and in proper working Order, but this work has not been carried out.

k) The landlord was also required to:

l) Instruct a suitably competent window contractor to inspect and assess the window glass and frames throughout the House to ensure they are in a reasonable state of repair, in proper working order and capable of being opened and closed and are wind and watertight, make appropriate recommendations for works required in compliance; and provide the First-tier Tribunal for Scotland (Housing and Property Chamber) with the Report and findings, so that further Direction as to the works that may be required can be made;

m) Instruct a water quality check from Scottish Water on the drinking water supply in the House and provide the First-tier Tribunal for Scotland (Housing and Property Chamber) with the Report and findings, so that further Direction as to the works that may be required can be made;

n) Provide the First-tier Tribunal for Scotland (Housing and Property Chamber) with a written Legionella risk assessment from a competent professional person who has assessed the hot and cold-water system and to provide an outline of any control measures required, so that further Direction if required can be made;

o) but no such reports have been provided.

p) The landlord was required to install in the House satisfactory equipment for detecting fire and giving warning in the event of fire or suspected fire by installing one smoke detector in the room most frequently used for general daytime living purposes, one smoke detector in every circulation space, one heat detector in the kitchen of the House; all smoke and heat detectors to be ceiling mounted and interlinked. All in line with the Scottish Government Guidance on the tolerable standard Chapter 16: Satisfactory Fire Detection. However, the landlord has not provided any such detectors. The tenant has provided an additional smoke detector in the kitchen since the previous inspection

q) The landlord was required to instruct a suitably qualified SELECT, NICEIC or NAPIT registered electrician to carry out a certified electrical inspection of the entire electrical installation of the House and all electrical appliances and equipment supplied by the landlord and carry out all necessary works to rectify any identified C1 and C2 categorised areas. To include a separate Report assessing the redundant switches, sockets and ceiling light fittings for safety. Thereafter to provide the First-tier Tribunal for Scotland (Housing and Property Chamber) with a current satisfactory Electrical Installation Condition Report (EICR), including Portable Appliance Testing (PAT), and

the Report on the redundant switches, sockets and light fittings, all prepared by a suitably qualified SELECT, NICEIC or NAPIT registered electrician. However, no such report has been provided.

r) The landlord was required to instruct a suitably qualified Gas Safe registered engineer to carry out a gas safety inspection of the House. Thereafter to provide the First-tier Tribunal for Scotland (Housing and Property Chamber) with a current Gas Safety Record showing all gas appliances, fittings, chimneys and flues in the House are safe and working efficiently. To include additional written verification that the gas tap in the living room hearth area has been capped off and is safe. However, no such report has been provided.

s) The landlord was required to install an adequate carbon monoxide detector in the House to comply with current Scottish Government Guidance. The landlord has not provided any such detector, and the tenant has supplied those present in the House, sited in the kitchen and utility room.

t) The landlord was required to repair or replace the left-hand oven in the kitchen so that it is in a reasonable state of repair and in proper working order and is safe, but the oven has not been repaired or replaced.

12. In conclusion, all works specified in the RSEO have not been completed. No application has been made to vary or extend the time for compliance.
13. The tribunal was satisfied that a decision could be made on the question of compliance, based on the findings of the re-inspection and the one response received, and that the landlord had been made aware of the requirements of the RSEO, the timescales imposed for works to be completed which has now expired, and the potential consequences of non-compliance.
14. The RSEO has not been complied with.

Rent Relief Order

15. Whilst the works have not been completed, on 9 January 2025, for the same property and Parties, under reference HPC/RP/24/1156, a Rent Relief Order was made following a failure to comply decision. It reduced the rent payable under the tenancy by 50%. It also required the failure to comply be reported to City of Edinburgh Council.
16. The tribunal has had sight of a copy letter from The City of Edinburgh Council to the tenant dated 20 March 2025 stating that they have found the owner to be unregistered as a landlord for the property and a Rent Penalty Notice('RPN'), effective from 21 March 2025, has been issued to the owner which states that the tenant does not have to pay rent as long as the order remains in place. The tribunal has no information before it to indicate that the RRO has been withdrawn.
17. Whilst it appears from the information produced from 2025 that the tenant is not required to pay rent, the tribunal had no control over the RPN process and if or when the RRO is lifted. In the circumstances, the tribunal determined that in respect of the absolute failure to comply with this RSEO, a further Rent Relief Order should be made.
18. The tribunal then considered what figures may be properly applied. It is clear that notwithstanding the extent of that required to be done under the RSEO,

the tenant is still living within the property with her family. The whole of the property appears to be in use, save one utility room and perhaps a cupboard or two. The comfort of that use of the property is significantly detracted from due to the pervasive damp and mould; lack of maintenance and repair with carpets causing potential trip hazards; lack of safety certification for electricity and gas; and lacking in aspects of fire and carbon monoxide detection. Having regard to those factors and the fact that the Landlord has made no effort to comply with the RSEO, the tribunal determined that the rent payable under the tenancy be reduced by 90%.

19. 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.

SUSAN CHRISTIE

Susan Christie, Legal Member 28 September 2026