

Housing and Property Chamber
First-tier Tribunal for Scotland



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

Notice of Revocation (RSEO) under section 25(1) of the Housing (Scotland) Act 2006

Chamber Ref: FTS/HPC/RP/21/2472

Title: Subjects at 31 Craigiebuckler Terrace, Aberdeen, AB15 8SX registered under Title Number ABN62540 (“the House”)

The Parties:-

Mr Frank Ibazebo, 31 Craigiebuckler Terrace, Aberdeen, AB15 8SX (“the Tenant”)

Mr Daniel Shepherd and Ms Lindsay Mathers, c/o Barbara Ellis Leasing, 13 Deeside Park, Aberdeen, AB15 7PQ (“the Landlord”)

The Tribunal comprised:-

Ms Ruth O’Hare - Legal Member
Mr Angus Anderson - Ordinary Member

Whereas in terms of their decision dated 1 August 2022, the First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the works required by the Repairing Standard Enforcement Order (“RSEO”) dated 28 April 2022 were no longer necessary, the Tribunal therefore determined to revoke the RSEO.

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.

Please note that in terms of section 28(1) of the Act, a landlord who, without reasonable excuse, fails to comply with a RSEO commits an offence liable on summary conviction to a fine not exceeding level 3 on the standard scale. A landlord (and that includes any landlord's successor in title) also commits an offence if he or she enters into a tenancy or occupancy arrangement in relation to a house at any time during which a RSEO has effect in relation to the house. This is in terms of Section 28(5) of the Act.

In witness whereof these presents type written on this and the preceding page(s) are executed at Glasgow on 11th October 2022 by Ruth O'Hare, Chairperson before this

R O'Hare



**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/21/2472

Re: Property at 31 Craigiebuckler Terrace, Aberdeen, AB15 8SX (“the Property”)

Parties:

**Mr Frank Ibazebo, 31 Craigiebuckler Terrace, Aberdeen, AB15 8SX (“the
Tenant”)**

**Mr Daniel Shepherd and Ms Lindsay Mathers, c/o Barbara Ellis Leasing, 13
Deeside Park, Aberdeen, AB15 7PQ (“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 the works required by the Repairing
Standard Enforcement Order (“RSEO”) dated 28 April 2022 were no longer
necessary and therefore revoked the order.**

Background

- 1 The Tenant applied to the Tribunal for a determination as to whether the Landlord had failed to comply with the duties imposed by Section 14(1)(b) of the Act.
- 2 The application stated that the Tenant considered the Landlord had failed to comply with their duty to ensure that the house meets the Repairing Standard and in particular that the Landlord had failed to ensure:-
 - (i) The house was wind, watertight and in all other respects reasonably fit for human habitation; and
 - (ii) The house met the tolerable standard.

- 3 In summary the Tenant submitted in the application that the vestibule, gable and roof were not wind and watertight, there was mould in the attic and two bedrooms, the hallway ceiling caved and the toilet required to be fixed to prevent it from emanating a foul smell.
- 4 An inspection took place on 13th January 2022, followed by a hearing on 14th March 2022. The Tribunal concluded that the property did not meet the Repairing Standard in terms of the following provisions of the Act:-
 - (i) In respect of section 13(1)(a), the house is not wind and watertight and in all respects reasonably fit for human habitation; and
 - (ii) In respect of section 13(1)(d), any fixtures, fittings and appliances provided by the landlord under the tenancy are not in a reasonable state of repair and in proper working order.
- 5 The Tribunal accordingly determined to make a Repairing Standard Enforcement Order as required in terms of Section 24(2) of the Act which required the Landlord to undertake the following works:-
 - (i) Investigate the areas of damp and water ingress in the house and carry out any remedial works required to prevent further water ingress;
 - (ii) Investigate the leak from the shower in the ensuite shower room in the master bedroom and carry out any repairs required to prevent water leakage;
 - (iii) Carry out repairs to the toilet to ensure it is in proper working order; and
 - (iv) Carry any redecoration required following completion of the above works.

Reference is made to the decision of the Tribunal dated 28 April 2022.

- 6 On 26th May 2022 the Tribunal received an email from the Landlord's representative, Barbara Ellis Property Leasing, with invoices for roof repairs and resealing of the shower cubicle. The representative further advised that the Tenant would be vacating the property on 31 May 2022, and that an order for repossession had been granted by the Tribunal in a separate case under reference FTS/HPC/EV/21/2839.
- 7 On 30 May 2022 the Tribunal received an email from the Tenant expressing dissatisfaction with the decision made in the case FTS/HPC/EV/21/2839. He advised that he had requested a review of the decision which had been refused. He was now seeking permission to appeal.
- 8 On 1st June 2022 the representative contacted the Tribunal by email to confirm that the Tenant had returned the keys for the property.

- 9 On 16th June 2022 the Tribunal contacted the Tenant by email asking for confirmation that he had vacated the property. The Tribunal also received an email from the Landlord's representative confirming that the Landlords had moved back into the property. The Tribunal subsequently made attempts to contact the Tenant by telephone but received no response.

Reasons for Decision

- 10 The Tribunal was satisfied that it had sufficient information upon which to reach a decision. Attempts had been made to contact the Tenant to confirm the current position regarding his tenancy of the property. In the absence of any response from the Tenant, and having regard to the representations made by the Landlord throughout the proceedings regarding their intention to return to the property, the Tribunal accepted the statements made by the Landlord's representative in her emails of 26th May 2022 and 1st June 2022 and concluded that the Landlords had returned to reside in the property on a permanent basis. The Tribunal therefore concluded that the works required by the RSEO were no longer necessary as the property was no longer tenanted and there was no intention to relet the property at this time.
- 11 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.

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R O'Hare

Legal Member/Chair

Date 1 August 2022