

# Housing and Property Chamber

## First-tier Tribunal for Scotland

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

**Chamber Ref: FTS/HPC/RP/23/1939**

**3 Balintraid Farm Cottages, Invergordon, IV18 0LY being part of the subjects the lands of Ballintraid, described in the Disposition in favour of the Firm of I and R Bannerman recorded in the Division of the General Register of Sasines for the County of Ross and Cromarty on 15 May 1989 (“the Property”)**

**The Parties:-**

**Mr James Brooks, formerly 3 Balintraid farm Cottages, Invergordon, IV18 0LY (“the Former Tenant” and “the Applicant”)**

**Ross Bannerman, trading as Bannerman Properties, Knockbreck Road, Tain, IV19 1BW (“The Landlord”)**

**Tribunal Members – M McAllister (Legal Member) and R Buchan (Ordinary Member) (“the tribunal”)**

**Decision**

- 1. The tribunal discharged the Hearing set own for 13 March 2024.**
- 2. The tribunal determined that the Landlord has complied with the duties imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006.**

**Background**

- 1. By application dated 13 June 2023, the Applicant applied to the Housing and Property Chamber of the First-tier Tribunal for Scotland for a determination of whether the Landlord has failed to comply with the duties imposed by Section 14 (1) (b) of the Housing (Scotland) Act 2006 (“the 2006 Act’). The application is in terms of Section 22 (1) of that Act.**
- 2. The Applicant and Respondent were parties to a short assured tenancy agreement in respect of the Property.**

3. On 4 August 2023, the Tribunal received notification that the Applicant had entered into a secure tenancy with Albyn Housing Association and intended to remove himself from the Property on 5 August 2023.
4. The Tribunal determined that, following the intimation of the Applicant's removal from the Property, the tenancy had been brought to an end and that, in terms of Schedule 2, paragraph 7(1) of the 2006 Act, the Former Tenant had withdrawn the application.
5. On 16 August 2023, the tribunal considered the application in terms of Schedule 2, paragraph 7 (3) of the 2006 Act and issued a Minute of Continuation to a Determination. The Former Tenant is no longer a party to the application.
6. On 3 October 2023, the Tribunal issued a Direction in terms of Regulation 16 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ("the Regulations"). The Direction required the Landlord to produce a satisfactory Electrical Installation Condition Report ("EICR").

### **The Application**

7. The application states that the Property does not meet the repairing standard set out in Section 13 of the 2006 Act: that the house is not wind and watertight and in all other respects reasonably fit for human habitation, that installations in the Property for the supply of water, gas and electricity and for sanitation, space heating and heating water are not in a reasonable state of repair and in proper working order and that any fixtures, fittings and appliances provided under the tenancy are not in a reasonable state of repair and in proper working order. The application states that the Property does not meet the tolerable standard in terms of the 2006 Act.
8. Specifically, the application states that the Property does not meet the repairing standard in a number of aspects:
  - 8.1 The back wall in the kitchen has no plasterboard.
  - 8.2 The external doors are not fit for purpose.
  - 8.3 The windows are blowing and the glass has blown.
  - 8.4 Evidence of mould in several rooms.
  - 8.5 External walls require pointing.
  - 8.6 Rodent treatment is required.
  - 8.7 Electrical safety.
  - 8.8 Completion of Kitchen fitting.
  - 8.9 Some internal walls need replastering.
  - 8.10 Stop cock requires to be made accessible.
  - 8.11 Kitchen tiles require to be repaired.
  - 8.12 Bath panel requires to be replaced.
  - 8.13 Electrical sockets in kitchen require to be fitted to the wall.
  - 8.14 There are drainage issues externally.

### **Inspection and Hearing 7 December 2023**

9. The tribunal inspected the Property on 7 December 2023 and a Hearing was convened on the same day. A satisfactory EICR was produced.
10. The tribunal issued a Decision on 17 December 2024 and it is referred to for its terms. The tribunal found that the Property was undergoing extensive refurbishment and that the Landlord had attended to many of the issues raised in the application.
11. The tribunal determined on 7 December 2024 that, in the circumstances, it would be appropriate for consideration of the application to be continued until a teleconference Hearing which was subsequently set down for 13 March 2024.
12. The tribunal noted at the inspection that there were certain matters which were not satisfactory but accepted the Landlord's position that works were in hand and would shortly be completed.
13. Specifically, it was noted that, although some windows had been replaced, some double glazing units were misted indicating that the seals of the double glazing had failed, a radiator and mixed fuel stove was to be installed in the living room, electric radiators were to be installed in other rooms, some electric sockets required to be attached to walls and that installation of a new bathroom requires to be completed.

### **Representations by Landlord**

14. On 26 February 2024, the Landlord's solicitor emailed the Tribunal and attached a number of photographs of the interior of the Property.

### **Determination by Tribunal**

15. The tribunal considered the photographs and the members were satisfied that the works outstanding at the date of inspection had been completed. The photographs demonstrated that double glazing had been replaced, that radiators had been installed, that a stove had been fitted in the living room, electric radiators had been installed throughout the Property, electric sockets had been fixed to the walls and the bathroom had been completed.
16. In the circumstances, the tribunal did not consider it necessary to have the Hearing on 13 March and discharged it.
17. In relation to the application, the tribunal determined that the Property met the repairing standard as set out in the 2006 Act and that there was therefore no requirement for further procedure.

18. In arriving at its determination, the tribunal had regard to what it had found at inspection, the contents of the EICR and the evidence of the photographs which had been produced.

**In terms of section 46 of the Tribunals (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 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.**

# M McAllister

M J. McAllister,  
Legal Member  
5 March 2024