



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

**Statement of Decision of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under section 60(5) of the
Housing (Scotland) Act 2006**

Chamber Ref: FTS/HPC/RP/24/0212

**43 Mason Avenue, New Cumnock, Ka18 4AY being the subjects
registered in the Land Register of Scotland under Title Number
AYR28256 (“the Property”)**

The Parties:-

**Shibhon McAuliffe, residing at 43 Mason Avenue, New Cumnock, Ka18
4AY (“The Tenant”)**

**Red Stag Property Group Limited, suite 5 56-58 Stirling Street, Airdrie,
ML6 0AS (“The Landlord”)**

**McGoogans (Coatbridge) Limited, suite 5 56-58 Stirling Street, Airdrie,
ML6 0AS (‘The Landlord’s Representative’)**

Tribunal Members:

Jacqui Taylor (Chairperson) and Kingsley Bruce (Ordinary Member)

1. Background

1.1 The Tenant leases the Property from the Landlord in terms of the Private Residential Tenancy between the parties.

1.2 The Tenant applied to the Tribunal 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 Act’).

2. Application

The application by the Tenant dated 14th January 2024 stated that she considered that the Landlord has failed to comply with his duty to ensure that the Property meets the repairing standard. She advised that the Property is not wind and watertight and in all other respects reasonably fit for habitation; the structure and exterior of the Property (including drains, gutters and external pipes) are not in a reasonable state of repair and proper working order.

In particular the application stated that the work that needed to be carried out was as follows:

- Guttering fell off 3rd August 2023.
- Rough casting fell off after 3rd August 2023.
- Roof tiles fell off 2014/2015

3. Notice of Acceptance

On 6th March 2024, James Bauld, as Convenor of the First- tier Tribunal (Housing and Property Chamber), signed the Notice of Acceptance which stated that he had considered the application, comprising documents received between 15th January 2024 and 22nd February 2024, and he referred the application under Section 22 (1) of the Act to a Tribunal.

4. Inspection

The Tribunal, attended at the Property at 10.00 on 14th June 2024.

The parties did not attend the inspection.

The Tenant had sent an email to the Tribunal on the morning of 14th June 2024 advising that due to unforeseen circumstances she was unable to attend the inspection and hearing. She had confirmed that access to the exterior of the Property was available.

The Tribunal gained access to the front and side of the Property. No physical access to the interior or rear of the Property was obtained.

The Property is a semi detached ex local authority house.

The Tribunal inspected the repairs detailed in the application and found as follows:

Guttering fell off 3rd August 2023.

Guttering and a section of downpipe is missing to the front of the Property. The guttering to the rear of the Property is unsecured and also a section of downpipe to the rear is unsecured.

Rough casting fell off after 3rd August 2023.

There are areas of spalling and missing render to the front and gable elevations.

Roof tiles fell off 2014/2015

There are ridge tiles missing. There are some loose ridge tiles. In addition, on the front roof slope loose tiles were evident.

The photographs taken at the inspection are attached as a Schedule to this Decision.

5. Hearing

This case called for an inperson Hearing at Russell House, Ayr at 11.45 on 14th June 2024.

The parties did not attend and were not represented.

6. Decision

6.1 The Tribunal made the following findings in fact:

6.1.1 The guttering and downpipes are defective due to sections being missing and sections being detached.

6.1.2 The roughcasting on the front and gable is defective due to sections of being spalled and missing.

6.1.3 The roof tiles are defective due to ridge tiles being missing and ridge and roof tiles being loose.

6.2 The Tribunal made the following determinations in relation to the following provision of the Repairing Standard:-

Section 13(1)(b) of the Housing (Scotland) Act 2006: The structure and exterior of the Property (including drains, gutters and external pipes) are not in a reasonable state of repair and proper working order.

The condition of the guttering, downpipes, roughcasting and roof and ridge tiles described above result in these items not being in a reasonable state of repair and proper working order.

6.3 The Tribunal accordingly determine that the Landlord has failed to comply with the duty imposed by Section 13(1)(b) and 14(1)(b) of the Act, for the reasons stated and will issue a separate Repairing Standard Enforcement Order.

6.4 The Tribunal expects the Tenants to provide access to the Landlord's contractors to enable the works to be carried out.

7. The decision of the Tribunal was unanimous.

8. 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.

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.

J Taylor

Date: 19th June 2024

Chairperson