



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 24(1) of the Housing (Scotland) Act 2006

Chamber Ref: FTS/HPC/RP/23/4675

Re: Property at 8 Donmouth Crescent, Bridge of Don, Aberdeen, AB23 8DQ (“the Property”)

Parties:

Sarah Jack, c/o DJ Alexander, Neo House, Riverside Drive, Aberdeen, AB11 7LH (“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”), having made such enquiries as it saw fit for the purposes of determining whether the Landlord has complied with the duty imposed by section 14(1)(b) of the Housing (Scotland) Act 2006 (“the 2006 Act”) in relation to the Property, and taking account of the evidence available to it following inspection, unanimously determined that the Landlord had complied with the duty imposed under section 14(1)(b) of the 2006 Act.

Background

1 By application to the Tribunal dated 11 December 2023, the former tenant of the Property sought a Repairing Standard Enforcement Order (“RSEO”) against the Landlord on the basis that the Landlord had failed to comply with the duties imposed by Section 14(1)(b) of the 2006 Act. The application stated that 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 is wind and watertight and in all other respects reasonably fit for human habitation; and
- (ii) The house met the tolerable standard.

- 2 In particular, the former tenant alleged that there was damp and mould in the bedrooms and kitchen, a leak in the small bedroom, and the bathroom window did not open.
- 3 By Notice of Acceptance of Application dated 11 January 2024 a Legal Member of the Tribunal with delegated powers from the Chamber President intimated that there were no grounds upon which to reject the application. The application was therefore referred to the Tribunal for a determination and Notice of Referral was served on the Landlord under Schedule 2, Paragraph 1 of the Act. An inspection was scheduled for the 9 April 2024 with a hearing set for later that day.
- 4 On 3 April 2024 the Tribunal received an email from the former tenant advising that she had vacated the property. By Minute of Continuation dated 8 April 2024 the Tribunal determined to continue the application on the basis that the issues highlighted in the application were sufficiently serious to merit a continuation and could pose a risk to the health of any future occupants.
- 5 The Tribunal attended the property on 9 April 2024 but were unable to gain access. The Tribunal therefore postponed the inspection and hearing to 13 September 2024.

The Inspection

- 6 The Tribunal inspected the property at 10.00am on 13th September, 2024. The landlord's representative was in attendance and permitted access. The property had been let to new tenants from 8th July, 2024. The new tenants were not present. Most of the rooms appear to have been redecorated prior to the commencement of the new tenancy.
- 7 The property is situated in a residential area within the suburb of Bridge of Don, around 2 miles north of Aberdeen City centre. It was dry and bright during the inspection with mixed sunny and showery weather over the preceding few days.
- 8 The property is a semi-detached, single storey bungalow which was constructed around 1935. The walls are solid blockwork, roughcast externally and the roof is pitched and slated. There is a gas fired system of central heating with radiators in all areas except the hallway and kitchen. The windows are PVC framed and a double glazed.
- 9 The accommodation comprises: entrance hallway, bathroom with WC, kitchen, bedroom 1, bedroom2 and lounge.
- 10 The inspection commenced within the bathroom in relation to damp and mould. No significant damp or mould was present to the walls and ceiling. Slight mould was present to the silicon sealant around the window frame. The

window was found to open and close normally. It has a trickle vent. The extractor fan was tested and found to be operational.

- 11 Within the kitchen, there was no significant damp or mould to the walls and ceiling. The area behind the cooker had been painted in recent times and there was no recurrence of mould. Behind the dishwasher and below the worktop, the decorations to the outer wall were marked and stained, being of some age. Moisture levels were tested using a Protimeter Surveymaster moisture meter. Normal readings (below 19%) were observed to all areas of the walls that were tested, including the area behind the dishwasher. The window was found to open and close normally. It has a trickle vent.
- 12 Bedroom one was inspected in relation to damp and mould. No obvious damp or mould was present. Accessible areas of the outer walls were tested for dampness and normal (below 19%) readings were observed to tested areas. The window was found to open and close normally. It has a trickle vent.
- 13 Bedroom two was inspected in relation to damp in mould. No obvious damp or mould was present. Accessible areas of the outer walls were tested for dampness and normal (below 19%) readings were observed to tested areas. The window was found to open and close normally. It has a trickle vent. The vent below the window appeared clear of obstruction.
- 14 The lounge was inspected in relation to damp in mould. No obvious damp or mould was present to the walls or ceiling. Slight mould was present to the silicon sealant around the window frame. Accessible areas of the outer walls were tested for dampness and normal (below 19%) readings were observed to tested areas. The window was found to open and close normally. It has a trickle vent.
- 15 The area around the front entrance door was inspected. No obvious damp or mould was present.
- 16 Externally, the building was inspected from ground level. The roof covering appeared largely intact, with one slipped slate noted at the edge of the roof near the bathroom. The roof overhangs the walls on the three open sides and provides a degree of shelter to the wall surfaces. The rainwater goods were choked with vegetation in places. There were no obvious significant defects to the walls that would lead to rainwater ingress.
- 17 Photographs were taken during the inspection and are included in the attached schedule.

The Hearing

- 18 The hearing took place by teleconference on 13 September 2024. The Landlord was represented by Leah Lowe of DJ Alexander.

- 19 The Tribunal summarised the findings from the inspection. Ms Lowe confirmed that she was content with the Tribunal's findings. She advised that the Landlord had carried out various works to the Property following the former tenant's departure. The property had been repainted and a membrane repair had been completed to address the mould. There had also been work done in terms of unblocking vents, and ensuring that the windows could be opened and closed. In response to questions from the Tribunal Ms Lowe confirmed that a company Rotwise had prepared a mould eradication schedule which included all rooms in the house. The walls and ceilings had been prepared, paint had been scraped off and the areas treated with spray, followed by the application of two coats of emulsion paint with anti-mould chemicals. Ms Lowe confirmed that she would send over the details of the works undertaken from the contractor.
- 20 With regard to the bathroom window Ms Lowe advised that a contractor had attended after the former tenant had vacated. The bathroom window wasn't opening and closing properly and a repair had been carried out to address this.
- 21 The hearing concluded and the Tribunal determined to issue its decision in writing.
- 22 Following the hearing Ms Lowe emailed the Tribunal with copies of the specification and estimate for the works carried out by Rotwise, the mould eradication schedule, and the invoice for the completed works.

Findings in fact

- 23 The Landlord and former tenant entered into a tenancy agreement in respect of the Property which commenced on 19 August 2022.
- 24 The tenancy between the parties terminated on or around 3 April 2024.
- 25 There is no evidence of ongoing damp or mould in the Property.
- 26 There is no evidence of water ingress in any rooms in the Property.
- 27 The Property is presently wind and watertight.
- 28 The bathroom window is capable of being opened and closed, and is in proper working order.

Reasons for decision

- 29 The Tribunal was satisfied that it had sufficient information to determine the application, having regard to the findings from the inspection, the written representations from the parties and the submissions at the hearing.

- 30 The Tribunal concluded, based on its findings in fact, that the property currently meets the Repairing Standard. Whilst the former tenant had cited problems with damp and mould in her application, there was no evidence from the Tribunal's inspection of the property to suggest any ongoing issues, with damp readings all showing as normal. The works carried out by the Landlord following the former tenant's departure from the Property appear to have addressed any previous concerns the former tenant may have had at this time. Similarly the bathroom window now appeared to be functioning correctly following repairs carried out by the Landlord after the former tenant's departure.
- 31 The Tribunal therefore determined that the Landlord had complied with Section 14(1)(b) of the 2006 Act. The Tribunal would however wish to highlight to the Landlord that the construction of the walls of the Property, coupled with the lack of heaters in the hall and the kitchen, are likely to make the property prone to condensation. Any moisture in the Property will therefore have to be properly managed and the Landlord should consider carrying out all of the recommendations in the Rotwise report, particularly ensuring the loft insulation and bathroom ventilation fan are both adequate, to mitigate the risk to any future occupants.
- 32 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.

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.

R O'Hare

Legal Member/Chair

Date 23 September 2024



Photograph 1 Front (northern) elevation.



Photograph 2 Rear Elevation.



Photograph 3 Bathroom : Overview.



Photograph 4 Bathroom: Window opens and shuts as designed. Trickle vent present.



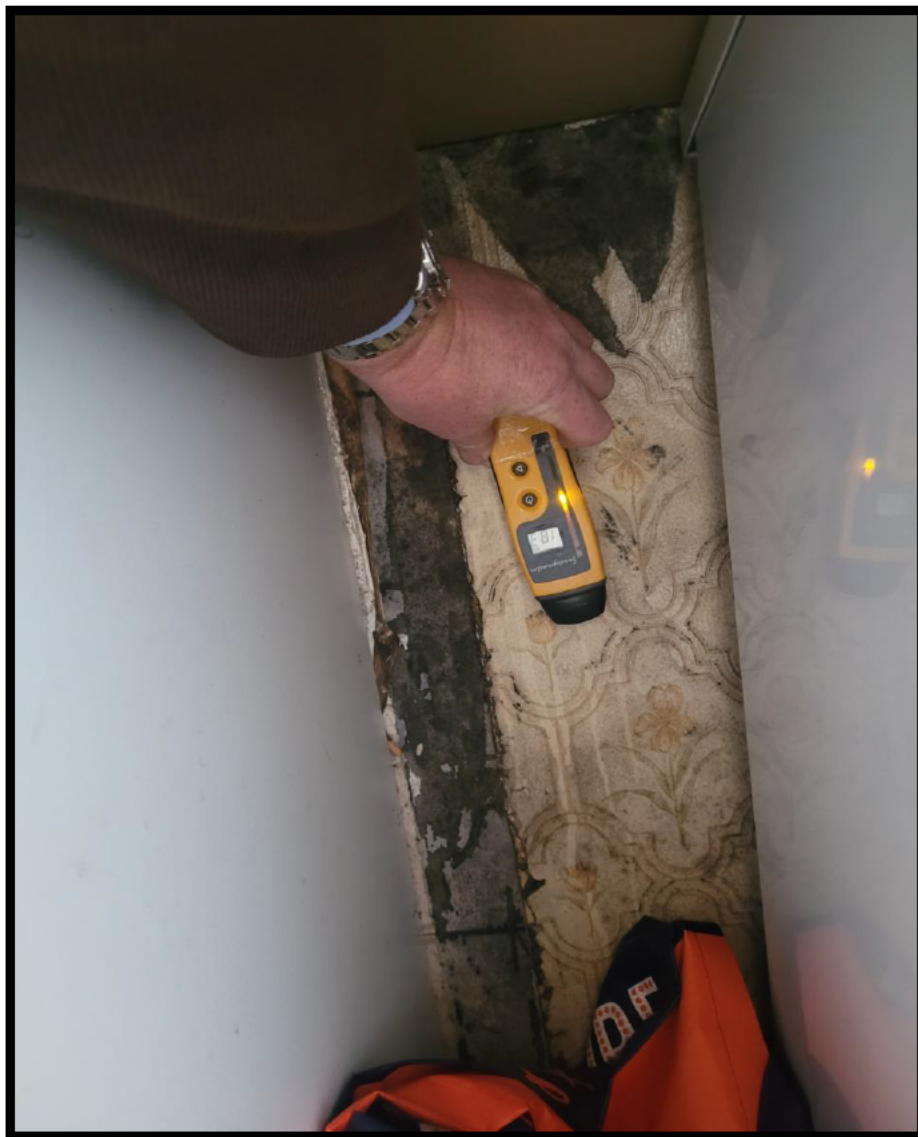
Photograph 5 Bathroom: Mould to silicon sealant.



Photograph 6 Kitchen: Overview.



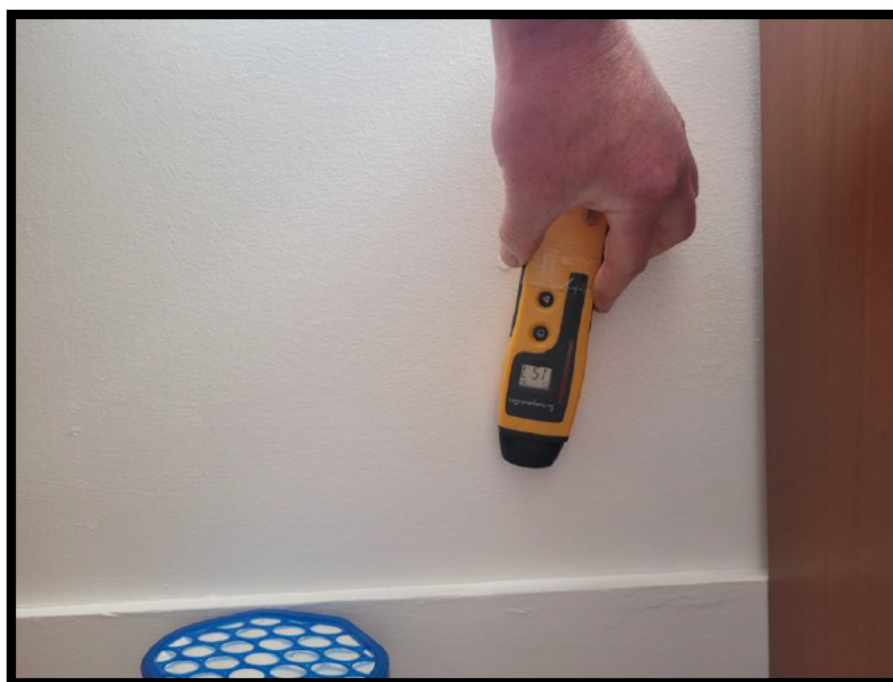
Photograph 7 Kitchen: Moisture meter reading 17% near cooker and outer door.



Photograph 8 Kitchen: Old decorations and meter reading 18% to outer wall adjacent to dishwasher.



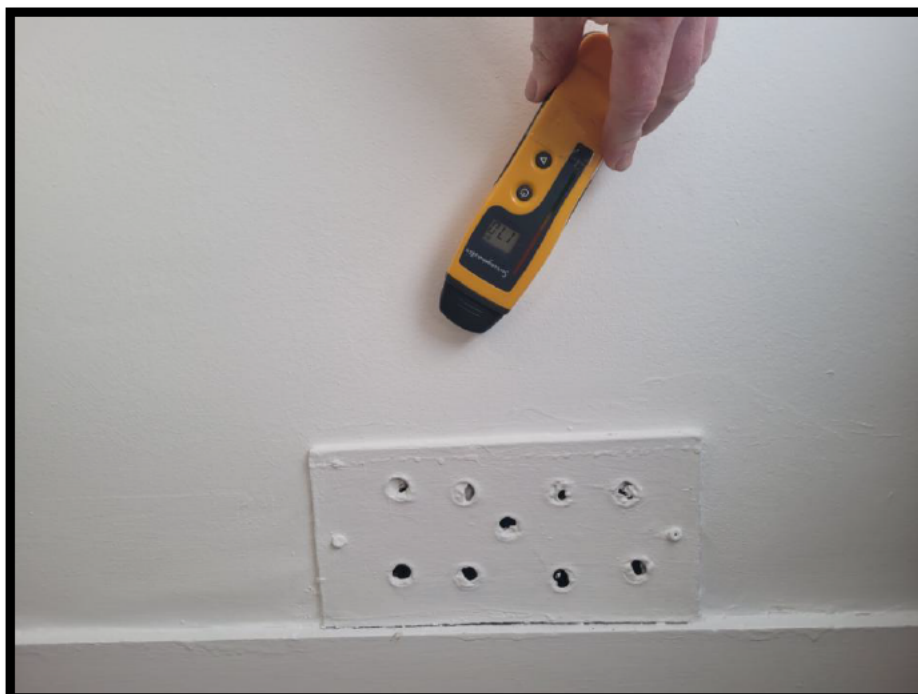
Photograph 9 Bedroom 1: Overview.



Photograph 10 Bedroom 1: Meter reading 15% to outer wall. Condensation trap present.



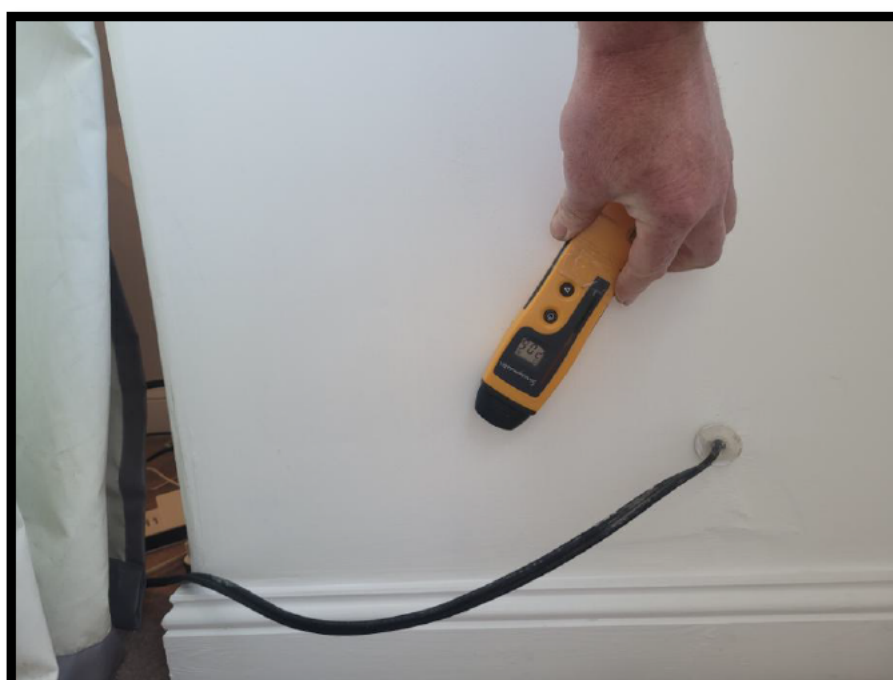
Photograph 11 Bedroom 2: Overview.



Photograph 12 Bedroom 2: Moisture reading 17%.



Photograph 13 Lounge: Overview.



Photograph 14 Lounge: Moisture reading 18% to outer wall.



Photograph 15 Front Entrance door, interior.



Photograph 16 Front entrance door and fanlight.