

# Housing and Property Chamber First-tier Tribunal for Scotland

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## **Statement of Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber)**

(Hereinafter referred to as “the tribunal”)

Under Section 24(1) of the Housing (Scotland) Act 2006 (“the Act”)

**Case Reference Number: FTS/HPC/RP/24/2807**

**Re: 10/4 Moat Drive, Edinburgh, EH14 1NR (“the house”)**

**Mr Sujan Rashid, formerly 10/4 Moat Drive, Edinburgh, EH14 1NR (“the former Tenant”)**

**Mr Cuma Cirkin, 5 Edgelaw Rigg, Edinburgh, EH16 6FS (“The Landlord”)**

**Tribunal Members – Sarah O'Neill (Legal Member) and Robert Buchan (Ordinary (Surveyor) Member)**

**Land Register Title No: MID93617**

### **Decision**

The tribunal, having made such enquiries as it saw fit for the purposes of determining whether the landlord has complied with the duty imposed on him by Section 14 (1) (b) of the Housing (Scotland) Act 2006 (“the Act”) in relation to the house, and taking account of all the available evidence, determines that the landlord has not failed to comply with the said duty. The tribunal’s decision is unanimous.

### **Background**

1. By application received on 19 June 2024, the former tenant applied to the tribunal for a determination that the landlord had failed to comply with his duty under Section 14(1) of the Act.
2. In his application, the former tenant stated that he believed the landlord had failed to comply with his duty to ensure that the house met the repairing standard as set out in section 13(1) (a), (e) and (h) of the Act. His application stated that the landlord had failed to ensure that:

1. the house is wind and watertight and in all other respects reasonably fit for human habitation.
2. the installations in the house for the supply of water, gas and electricity and for sanitation, space heating and heating water are in a reasonable state of repair and in proper working order.
3. The former tenant included the following related complaints in his application form:
  1. The boiler is not working.
  2. We are without heating and hot water.
4. On 17 July 2024, a notice of acceptance of the application was issued by a Convener with delegated powers of the Chamber President. An inspection and hearing were arranged for 28 November 2024.
5. The landlord was invited to submit written representations no later than 24 October 2024.
6. An email was received from the landlord on 7 October 2024, stating that the former tenant had given notice on 8 August 2024 and left the keys on 11 August 2024. This was confirmed in an email from the former tenant on 8 October 2024.
7. On 21 October 2024, the tribunal issued a minute of continuation confirming the tribunal's intention to continue with the application. This was on the basis that the application should be determined on public interest grounds due to the nature of the alleged repairs issues and the potential effects for any future tenants/occupiers if the allegations were substantiated.
8. On the same date, the tribunal issued a direction to the landlord, requiring him to provide by 18 November 2024 an up to date gas safety certificate in respect of the house by a Gas Safe registered engineer, showing that all gas installations and appliances, including the boiler and water heating system, within the house, have been checked and are working safely.
9. No written representations or response to the direction were received from the landlord prior to the inspection and hearing.

### **The inspection**

10. The tribunal inspected the house on the morning of 28 November 2024. The weather conditions at the time of the tribunal's inspection were cold and dry. The landlord was present at the inspection, as were two of the three new tenants of the house.

11. Photographs were taken during the inspection. These are attached as a schedule to this decision.

### **The house**

12. The house is a first floor flat in a three-storey block of former local authority flats.

### **The hearing**

13. Following the inspection, the tribunal held a hearing at George House, 126 George Street, Edinburgh Glasgow EH2 4HH. The landlord was not present or represented at the hearing. He had told the tribunal at the inspection that he did not intend to attend the hearing. The tribunal was satisfied that the landlord had been given adequate notice of the hearing.

### **The evidence**

14. The evidence before the tribunal consisted of:

- The application form submitted by the former tenant.
- Copy tenancy agreement between the parties in respect of the house which commenced on 11 October 2020.
- Copy email sent by the former tenant to the landlord on 6 June 2024 notifying him of the required repairs.
- WhatsApp messages between the parties sent on various dates in June 2024 regarding the required repairs.
- Registers Direct copy of Land Register title MID93617.
- Scottish Landlord Register registration details for the house.
- The tribunal's inspection of the house.
- Gas safety certificate in respect of the house produced by EdinBoilers Ltd dated 29 November 2024.

### **Summary of the issues**

15. The issue to be determined was whether the house meets the repairing standard as set out in Section 13 of the Act, and whether the landlord has complied with the duty imposed by section 14 (1) (b).

### **Findings in fact**

16. The house is owned by the landlord.

17. The landlord is the registered landlord for the house.

18. The parties entered into a tenancy agreement for the house which commenced on 11 October 2020.
19. At its inspection, the tribunal carefully checked the items which were the subject of the complaint. The tribunal observed the following:
  - a) When tested, the boiler was found to be operational.
  - b) When the heating was switched on, the radiators started to warm up.
  - c) The hot water within the house was functioning adequately.
20. The boiler within the house was found to be satisfactory and safe to use by a Gas Safe registered engineer on 29 November 2024.

### **Reasons for decision**

21. The tribunal considered that in the circumstances, it was able to make a decision without a hearing as: 1) having regard to such facts as were not disputed by the parties, it was able to make sufficient findings to determine the case and 2) to do so would not be contrary to the interests of the parties.
22. In making its decision, the tribunal carefully considered all of the evidence before it. In doing so, it applied the civil burden of proof, which is the balance of probabilities.
23. At its inspection the tribunal observed that:
  - a) When tested, the boiler was found to be operational.
  - b) When the heating was switched on, the radiators started to warm up.
  - c) The hot water within the house was functioning adequately
24. The landlord told the tribunal at the inspection that he would send the gas safety certificate to the tribunal. A gas safety certificate in respect of the house produced by a Gas Safe registered engineer from EdinBoilers Ltd dated 29 November 2024 was received from the landlord on 29 November 2024. This stated that the boiler was satisfactory and safe to use.
25. The tribunal therefore determines that at the time of its inspection, the boiler, heating and hot water systems were in a reasonable state of repair and in proper working order.

### **Observation by the tribunal**

26. **The landlord is reminded** that private landlords are required to ensure that a gas safety check on the boiler and any other gas appliances within each rented property is carried out every 12 months<sup>1</sup>.

**Summary of decision**

27. On the basis of all the evidence before it, the tribunal determines that the landlord has not failed to comply with the duty imposed by section 14(1) (b) of the Act.

**Rights of Appeal**

28. 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.
29. 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.

S O'Neill

Signed.....Date: 6 December 2024  
Sarah O'Neill, Chairperson

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<sup>1</sup> Under regulation 36 of [The Gas Safety \(Installation and Use\) Regulations 1998 \(as amended\)](#)

Photographs taken during the inspection of 10/4 Moat Drive, Edinburgh, EH14 1NR  
Chamber reference number FTS/HPC/RP/24/2807



First floor flat, front



Gas fired boiler

Photographs taken during the inspection of 10/4 Moat Drive, Edinburgh, EH14 1NR  
 Chamber reference number FTS/HPC/RP/24/2807



Radiator emitting heat

**REGIA LANDLORD/HOME OWNER GAS SAFETY RECORD** Report Ref No: 45C 3573272

This inspection is for gas safety purposes only to comply with the Gas Safety (Installation and Use) Regulations. Flues have been inspected visually and checked for satisfactory evacuation of products of combustion. A detailed internal inspection of the flue integrity, construction and lining has NOT been carried out.

REGISTERED BUSINESS DETAILS		INSPECTION/INSTALLATION ADDRESS		LANDLORD (OR AGENT) NAME & ADDRESS (if applicable)	
Reg No: 47276	Company: EDINBOURGH LTD	Name & Title: CLMA CIRKIN	Address: 10/4 MOAT DRIVE	Name & Title:	
Address: 120 CRAIGLEA DRIVE	EDINBURGH	Address: 10/4 MOAT DRIVE	EH14 1NR	Address:	
Postcode: EH10 5PA	Tel: 07506 850125	Edinburgh	Edinburgh	Postcode:	Tel:
		Postcode: EH14 1NR			
				Number of appliances tested: 2	

Location	Make and Model	Type	Flue Type OF/RS/FL	Operating pressure in case of heat input with the Burner	Safety device(s) correct operation checked/ok	FLUE TESTS			INSPECTION DETAILS						
						Spillage test Pass/Fail/N/A	Smoke pellet flow test Pass/Fail/N/A	Initial combustion analyser reading	Final combustion analyser reading	Satisfactory Ventilation Yes/No/NA	Flue visual condition Pass/Fail/NA	Adequate ventilation Yes/No	Landlord's appliance Yes/No/NA	Inspected Yes/No	Appliance Visual Check Yes/No
1 KITCHEN	WEXERA COMPACT 25	B	RS	2.4	Yes	N/A	N/A	0.0022	Yes	PASS	Yes	Yes	Yes	Yes	Yes
2 KITCHEN	UN KOWN	HCB	FL	19.5m	Yes	N/A	N/A	-	NA	N/A	Yes	Yes	Yes	Yes	Yes
3															
4															
5															

For appliances not owned by the landlord the recorded 'Appliance Safe to Use' response is based on a visual check for obvious defects only.

Gas Installation Pipework: Satisfactory Visual Inspection: Yes  No  Emergency Control Accessible: Yes  No  Satisfactory Gas Tightness Test: Yes  No  Equipotential Bonding Satisfactory: Yes  No

GIVE DETAILS OF ANY FAULTS	RECTIFICATION WORK CARRIED OUT	WARNING NOTICE ISSUED Yes/No/NA	WARNING TAG or LABEL FIXED Yes/No/NA
1			
2			
3			
4			
5			

Approved Audible CO Alarms Fitted & Located Correctly: Yes  No  N/A  Are CO Alarms in Date: Yes  No  N/A  Testing of CO Alarms Satisfactory: Yes  No  N/A  Smoke/Heat Alarms Located & Fitted correctly: Yes  No  N/A

OTHER COMMENTS OR OBSERVATIONS	NEXT GAS SAFETY CHECK DUE BEFORE:	ISSUED BY (GAS ENGINEER)
	29/11/25	Print Name: M A O'SHAIR Licence No: 5641524 Signed: M A O'SHAIR
		Issue Date: 29/11/2024
		RECEIVED BY
		Received By: CLMA Signed: CLMA
		(Name as appearing on Licence) Tenant/Agent/Landlord/Home Owner No one present at time of visit <input type="checkbox"/>
		Print Name:

Copies: White - Landlord/Agent/Home Owner Green - Engineer Pink - Tenant (if rented)

Gas safety certificate