



Statement of Decision 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/RT/24/1655

16 Ashgrove Crescent, Ecclefechan, Lockerbie, DG11 3EA Land Register of Scotland under title number DMF17282 ('The Property')

The Parties:-

Graeme and Fiona Carruthers residing together at Dunnekelly, Burnbank Street, Ecclefechan, DG11 3DH ('the Landlord').

Mr Edment, Solicitors, McJerrow and Stevenson, Solicitors, Lockerbie ('the Landlord's Representative')

Dumfries and Galloway Council ('Third Party')

Lisa McGregor ('the former Tenant').

The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the Tribunal') comprising: Jacqui Taylor (Legal Member) and Sara Hesp (Ordinary Member).

Decision

The Tribunal, having made such enquiries as it saw fit for the purposes of determining whether the Landlords have complied with the duty imposed by Section 14 (1)(b) in relation to the Property, determined that the Landlord has failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

Background

1. The former Tenant leased the Property from the Landlord and vacated the Property in January 2025. The Third Party made an application to the Tribunal dated 10th April 2024 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. The application stated that they considered that the Landlord has failed to comply with their duty to ensure that the Property meets the repairing standard. They advised that the Property was not wind and watertight and in all other respects reasonably fit for human 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; the installations in the house 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 proper working order; the fixtures, fittings and appliances provided by the Landlord under the tenancy are not in a reasonable states of repair and proper working order and the Property does not meet the tolerable standard.

In particular the application stated :-

Lounge

2.1 The front window in the lounge is cracked.

2.2 There is no smoke detection.

2.3 The electric storage heater in the lounge does not work.

Kitchen Area

2.4 There is no heat/ smoke detection.

2.5 An isolator switch at the bottom right hand wall is not fixed to the wall.

2.6 The cooker isolator switch and plug are not fixed to the wall. There is a gap of approximately 25mm.

2.7 Wallpaper is peeling from the wall.

2.8 The back door does not seal properly and day light can be seen down the right hand side.

2.9 There is no main lighting in this area.

Downstairs hall

2.10 The electric storage heater is inoperable and does not work.

2.11 Uncertain if the smoke detector is interlinked.

Upper Hall

2.12 Uncertain if the smoke detector is interlinked.

Bathroom

2.13 Main light is not operational.

2.14 There is a bare wire coming into the bathroom.

2.15 Black mould/ damp is evident on the ceiling.

2.16 Water is leaking from the bathroom area into the kitchen below.

Bedroom 3 (over looking front garden)

2.17 Black mould is evident in the top righthand corner of the external wall.

2.18 The electric heater is inoperable. The isolator switch is taped up.

Bedroom 2 (over looking the rear garden)

2.19 The electric heater is inoperable. The isolator switch is not fixed to the wall.

2.20 Black mould is evident in above the window and curtain pole.

2.21 The fascia board on which the curtain pole is attached is coming away from the wall.

Bedroom 1 (over looking the front garden)

2.22 The electric heater is inoperable and not fixed to the wall.

2.23 The wall paper is peeling away from the external wall. Black mould has been cleaned from the wall.

Rear elevation

2.24 The soffit board above bedroom 2 appears unsecured which may allow water ingress into the fabric of the Property.

2.25 There is vegetation growing in the guttering.

2.26 The fence and gate accessing the back garden are broken.

Front elevation

2.27 There is vegetation growing in the guttering, the weight of which is causing the guttering to bow at the right hand side.

3. On 25th April 2024, Josephine Bonnar, as Convenor of the First- tier Tribunal (Housing and Property Chamber), signed the Notice of Acceptance which stated that she had considered the application, comprising documents received on 10th April 2024, and she referred the application under Section 22 (1) of the Act to a Tribunal.

4. Direction

The Tribunal issued a Direction to the Landlord dated 10th July 2024 which required the Landlord to provide the Tribunal with valid and compliant Electrical Installation Condition Report by 31st July 2024.

The Landlord did not provide the required Electrical Installation Condition Report.

5. Written Representations lodged by the landlord.

The Landlord's solicitor lodged written representations in the following terms:

'The following facts are not disputed by the Respondent:

a) Lisa McGregor (the "Tenant") and the Respondent entered into a private residential Tenancy Agreement (the "Tenancy Agreement") for 16 Ashgrove Crescent, Ecclefechan, Lockerbie, DG11 3EA (hereinafter referred to as the "Property") on 14 April 2020. The Tenancy Agreement is a private residential Tenancy Agreement under the Private Housing (Tenancies) (Scotland) Act 2016.

b) The Respondent is in the process of obtaining her Landlord Registration and her application was lodged on 12 April 2023.

c) The Tenant made payment of the deposit, £450 to the Respondent on 14 April 2020. d) The Tenant took entry to the Property on 14 April 2020 and has had vacant possession of it.

Rule 48 a) The Respondent hereby answers the Third Party's claim under the Housing (Scotland) Act 2006, section 22(1) and The First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Amendment Regulations 2017, Section 48 (hereinafter referred to as "Rule 48") as follows: b) The Respondent has acknowledged that she has a duty under the Housing (Scotland) Act 1987, section 13(1), Housing Scotland Act 2006, section 13(1) and 14(1) to ensure that the Property meets the "Repairing Standard" at the start and at all times during the Tenancy Agreement. The Respondent understands that the Tribunal can determine either: (1) that the Landlord has complied with their duties and can close the case, or (2) that the Landlord has failed to comply with their duties, but lacks the necessary rights or access to carry out the works to the Property, in which case the Tribunal can serve notice of the Failure to Comply on the Third Party, or (3) that the Landlord has failed to comply with their duties, but has the necessary rights to access the Property, in which case the Tribunal can issue a Repairing Standard Enforcement Order (RSEO) to the Landlord. c) The Respondent's daughter, Megan Carruthers ("Ms Carruthers") resided in the Property from March 2019 until March 2020, the month before the aforementioned Tenancy Agreement began and the Tenant began occupying the Property. Ms Carruthers has provided a signed letter ("Production 1"), which the Respondent has lodged with the Tribunal. This letter details in full the repairs that were carried out the Property by the Respondent before Ms Carruthers began occupying the Property on or around March 2019. Furthermore, Ms Carruthers has confirmed that when her tenure of the Property ended on or around March 2020 there was no damage to the Property, garden grounds or furniture and

plenishings. d) The Respondent has provided a few photographs showing the condition of the Property from on or around April 2019. These photographs ("Production 2") have been lodged by the Respondent and provided to the Tribunal. The Tenant had the opportunity to view the Property before the tenancy commenced. The Tenant did not raise any concerns with the Respondent about the condition or standard of the Property before the tenancy commenced. In accordance with clause 43 of the Tenancy Agreement, the Tenant was obliged to inform the Respondent of any damage caused to the Property. The Tenant did not raise any concerns with the Respondent about the condition of the Property once she had moved in and had been afforded every opportunity to fully inspect the condition of the Property. Accordingly, it is the Respondent's position that she fully complied with her duty to ensure that the Property met the Repairing Standard before the tenancy commenced. e) The Respondent received a letter from the Third Party dated 17 October 2023 alleging that the Property failed to meet the Repairing Standard. Throughout the Tenant's occupation of the Property, she did not advise the Respondent of either any damage sustained to the property or of any impairment to or deterioration of the fabric of the Property nor of any repairs that were urgently required. The only exception to this was on or around September 2020 when the Tenant advised the Respondent verbally that a window had been damaged. The Tenant explained that the damage had been caused by children throwing stones. The Tenant offered to have the window repaired in exchange for a reduction in rent for a period of time to cover the costs of the repair. The Respondent agreed to this proposed arrangement. The Tenant at no time attended to the window repairs, nor did she inform the Respondent of her failure to do so. The Respondent believed that the Tenant was going to carry out these repairs. Notwithstanding this, the Respondent has confirmed that she will rectify the damage once she has been permitted access to the Property (paragraph "g"). Again, and in accordance with clause 43 of the Tenancy Agreement, the Tenant had an obligation to promptly notify the Respondent of any damage caused to the Property. The Respondent only became aware of damage that had been caused to the Property when they received the letter from the Third Party on 17 October 2023. It is therefore the Respondent's position that the Tenant has failed to comply with her obligations under the Tenancy Agreement, namely to inform the Landlord of any damage caused to the Property. f) In their letter dated 17 October 2023, one key issue raised by the Third Party is that there were a lack of smoke detectors in the Property. The Respondent consulted Bell Electrical Group Limited on or around November 2023 to obtain a quotation for installing new smoke and heat detectors in the Property ("Production 3"). The Respondent was willing to instruct Bell Group Limited to install the new alarms and detectors but was unable to access the Property. The Respondent was advised by her neighbour that Dumfries & Galloway Fire & Rescue Service attended the Property in or around March 2024 to install new fire alarms and smoke detectors. The Third Party has also called upon the Respondent to provide a copy of the electrical safety inspection (EIC or EICR). The Respondent again consulted Bell Electrical Group Limited initially on or around November 2023 ("Production 3") and again on 23 July 2024 ("Production 4") to provide a quotation for undertaking the EICR Testing. The Respondent consulted a local electrician, Cameron Robb and instructed him to attend the Property for the purpose of testing all electrical equipment and to install smoke alarms. The Respondent notified the Tenant on 9 December 2023 ("Production 5") that an electrician would be attending the Property for the purpose of undertaking the inspection and installing the smoke detectors. The

Respondent received a message from the electrician on 14 December 2023 ("Production 6") advising that they attended the Property on the scheduled date but were unable to gain access. The electrician later reported to the Respondent that the Tenant was in the Property but failed to answer the door. The electrician was not permitted access to the Property. The Tenant has not responded the Respondent since she requested access to the Property. Accordingly, the Respondent has been unable to instruct an electrician to attend the Property to undertake an electrical safety inspection. The Respondent affirms that they will instruct an electrician to provide an EIC once the Tenant has confirmed that they will grant the Respondent's tradesman access to the Property. The Respondent has on a number of occasions/repeatedly incurred expenses in instructing third parties to attend the Property, only for them to be denied access. Given that the Tenant has failed to respond or engage with the Respondent and her tradesmen it is the Respondent's position that they lack the necessary rights or access to carry out works to the Property. Despite best efforts the Respondent has been unable to contact the Tenant. The Tenant has blocked the Respondent's number, email and social media messenger.. The Respondent did not consider it appropriate to attend the Property without giving the Tenant appropriate notice. Accordingly, the Respondent has been unable to contact the Tenant to gain access to the Property. g) The Respondent is aware they have an obligation to ensure that the Property meets the requisite standard. For the avoidance of any doubt, the Respondent has confirmed that they will carry out the works that are deemed necessary to meet the Repairing Standard once they have gained access to the Property. With specific reference to the letter received from the Third Party on 17 October 2023, the Respondent will attend to the following: (1) install new smoke detectors in each room, (2) fix the cracked window in the lounge, (3) replace/repair the exposed wire in the bathroom, (4) repair/replace the fascia board in the second bedroom, (5) secure the soffit board in the second bedroom, (6) clean the guttering, (7) repair the damage caused to the fence and gate. It is the Respondent's position that the above issues highlighted by the Third Party are anticipated to be as a result of fair wear and tear. The Respondent is prepared to accept responsibility for rectifying these issues. The Respondent will consult and instruct the appropriate third parties once the Tenant has confirmed that they will allow access to the Property. The Respondent is currently in the process of obtaining quotations in respect of the works detailed above. The Respondent reserves the right, in terms of clause 17 of the Tenancy Agreement to charge the Tenant or make deductions from the Security Deposit if the above noted issues have been caused by the actions, fault, omission or neglect of the Tenant during their occupation of the Property. h) In accordance with Clause 44 of the Tenancy Agreement, the Tenant agreed to take reasonable care of the Property. It is the Respondent's position that the Tenant did not take reasonable care of the Property during the whole period of their occupation. Given that the Tenant failed to bring any discrepancies to the attention of the Respondent, the Tenant accepted that the Property as being in good and tenantable condition at the start of the Tenancy Agreement. i) The condition of the Property at the start of the Tenancy Agreement is as detailed in paragraphs (c) and (d) and Production 1 and 2. In accordance with Clause 18 of the Tenancy Agreement, the Tenant is responsible for replacing or repairing any of the contents which are or have become destroyed, damaged or removed or lost during their occupation of the Property. The respondent asserts that various contents, furnishings and appliances were destroyed or damaged in the Property during the Tenant's occupation as detailed in the letter received from the

Third Party on 17 October 2023. j) On the basis of the evidence provided by the Respondent as referenced in paragraphs (c) and (d), it is the Respondent's position that the remaining issues highlighted by the Third Party in their letter dated 17 October 2023 (i.e. those not referenced in paragraph "g") are a result of the Tenant's actions and/or omissions during their occupation of the Property. It is the Respondent's position that the majority of the repairs detailed are not a result of fair wear and tear, but rather caused by the Tenant's careless or negligent actions and omissions. It is the Respondent's position that the Tenant is liable for the whole costs of repairing or replacing all contents that were destroyed, damaged or removed from the property during their period of the Tenant's occupation. k) The Respondent remains willing to carry out the repairs that are necessary to ensure that the Property meets the requisite Repairing Standard. However, the Respondent reasonably anticipates that she will incur significant expenses in repairing and replacing the contents and furnishings referred to in the Repairing Standard Checklist dated 17 October 2023. The Respondent reasonably anticipates that further works to the Property will be required. The Respondent reserves the right to hold the Applicant accountable for any and all losses and expenses that she may incur in restoring the Property to the condition that it was in when the Tenancy Agreement commenced. Notwithstanding the above, the Respondent is currently in the process of obtaining quotations to repair the other works detailed in the Third Party's letter dated 17 October 2023. l) The Respondent has raised separate proceedings against the Tenant seeking an eviction order on the following basis: (1) that the Tenant has refused to grant the Respondent access to the Property to carry out the EICR which means the Respondent has been unable to renew her landlord registration, and (2) that the rent due from the Tenant has been in arrears for at least three months. The Respondent is aware that the Tenant may have decided to withhold payment of the rent until the repairs have been carried out. There is no contractual right within the Tenancy Agreement which allows the Tenant to withhold payment of rent. The rent arrears are accordingly due and outstanding. The Tenant is therefore called upon to produce vouching that the outstanding amount due in respect of the rent arrears is being held by the Tenant.'

6. Minute of Continuation.

The Tribunal issued a Minute of Continuation dated 21st October 2024 in the following terms:

'Having received a request to withdraw the application from the Third Party Applicant, in terms of Schedule 2 Paragraph 7(1A), the tribunal then considered the application and whether said application should continue to be determined or whether it should be abandoned, all in terms of Schedule 2 Paragraph 7(3) of the said Act;

The Tribunal acknowledged that the Landlord has had difficulty obtaining access to the Property but recognized that the Landlord could make a separate application to the Tribunal for assistance in exercising the Landlord's right of entry in terms of the Housing (Scotland) Act 2006. The Tribunal were concerned that the matters detailed in the application raised health and safety concerns and accordingly the Tribunal has decided to continue to determine the application.'

7. The First Inspection.

The Tribunal attended at the Property at 11.00 am on 16th August 2024. On the morning of the inspection the Tenant sent an email to the Tribunal administration stating that she was unable to provide access. The inspection did not proceed.

8. The Second Inspection.

The Tribunal attended at the Property at 11.00 am on 16th December 2024. The Tenant had sent an email to the Tribunal administration advising that she would provide access however she was not at the Property at the time of the inspection. The Landlord was at the Property but did not have a key and was unable to provide access. The inspection did not proceed.

9. The First Hearing.

Following the inspection of the Property on 16th December 2024 the Tribunal held a telephone conference at 14.30 pm.

The Landlord and her solicitor Ewen Edment attended the hearing. The Tenant and the Third Party did not attend and were not represented.

Mr Edment asked the Tribunal to not proceed with the application as the eviction order had been granted. Mrs Taylor referred Mr Edment to the Minute of Continuation and advised that the Tribunal had determined to continue with the application due to health and safety concerns relating to matters detailed in the application.

10. Outcome of the First Hearing.

Mrs Taylor advised that the inspection would be rearranged.

11. The Third Reinspection.

The Tribunal attended at the Property at 15.00 am on 2nd April 2025. The Landlord was present. The former Tenant had vacated the Property. The Third Party was not represented at the inspection.

The Property, 16 Ashgrove Crescent, Ecclefechan, Lockerbie, DG11 2HY is a mid terraced villa with a slate roof. The accommodation comprises 3 bedrooms, lounge, kitchen and bathroom. There is garden ground to the front and rear of the Property.

The Tribunal inspected the alleged defects and found as follows:-

Lounge

11.1 The front window in the lounge is cracked.

The front right hand window (facing the Property) is cracked.

11.2 There is no smoke detection.

There was a smoke detector fixed to the lounge ceiling that operated but was not interconnected.

11.3 The electric storage heater in the lounge does not work.

The electric storage heater turned on correctly at the inspection.

Kitchen Area

11.4 There is no heat/ smoke detection.

There was a heat detector fixed to the kitchen ceiling that operated but was not interconnected.

11.5 An isolator switch at the bottom right hand wall is not fixed to the wall.

The Tribunal observed that the isolator switch at the bottom right hand wall was not fixed to the wall.

11.6 The cooker isolator switch and plug are not fixed to the wall. There is a gap of approximately 25mm.

The Tribunal observed that the cooker isolator switch was not fixed to the wall.

11.7 Wallpaper is peeling from the wall.

Some of the wallpaper in the kitchen was peeling from the wall.

11.8 The back door does not seal properly and day light can be seen down the right hand side.

The Tribunal observed day light down the right hand opening side of the back door. It was not wind and water tight.

11.9 There is no main lighting in this area.

A kitchen ceiling light had been installed.

Downstairs hall

11.10 The electric storage heater is inoperable and does not work.

The electric storage heater turned on correctly at the inspection.

11.11 Uncertain if the smoke detector is interlinked.

There was a smoke detector fixed to the ceiling of the downstairs hall that operated but was not interconnected.

Upper Hall

11.12 Uncertain if the smoke detector is interlinked.

There was a smoke detector fixed to the ceiling of the upper hall that operated but was not interconnected.

Bathroom

11.13 Main light is not operational.

It was not possible to turn the bathroom light on at the inspection.

11.14 There is a bare wire coming into the bathroom.

There was no bare wire present at the inspection.

11.15 Black mould/ damp is evident on the ceiling.

There was an area of black mould on the bathroom ceiling that was dry when tested with the damp meter.

11.16 Water is leaking from the bathroom area into the kitchen below.

There was no evidence of the leak in the bathroom. There was staining on the kitchen ceiling that was dry when tested with the damp meter.

Bedroom 3 (over looking front garden)

11.17Black mould is evident in the top righthand corner of the external wall.

There was an area of black mould on the ceiling of bedroom 3 that was dry when tested with the damp meter.

11.18The electric heater is inoperable. The isolator switch is taped up.

The electric storage heater turned on correctly at the inspection.

Bedroom 2 (over looking the rear garden)

11.19The electric heater is inoperable. The isolator switch is not fixed to the wall.

The electric storage heater turned on correctly at the inspection.

11.20Black mould is evident in above the window and curtain pole.

There was an area of black mould on the ceiling of bedroom 2 that was dry when tested with the damp meter.

11.21The fascia board on which the curtain pole is attached is coming away from the wall.

The fascia board on which the curtain pole is attached was secure at the inspection.

Bedroom 1 (over looking the front garden)

11.22The electric heater is inoperable and not fixed to the wall.

The electric storage heater turned on correctly at the inspection.

11.23The wall paper is peeling away from the external wall. Black mould has been cleaned from the wall.

Some of the wallpaper in the bedroom 1 was peeling from the wall.

Rear elevation

11.24The soffit board above bedroom 2 appears unsecured which may allow water ingress into the fabric of the Property.

The soffit board above bedroom 2 was not secure.

11.25There is vegetation growing in the guttering.

The Tribunal observed vegetation growing in the gutters at the inspection.

11.26The fence and gate accessing the back garden are broken.

The rear boundary fence and gate at the rear of the property were broken.

Front elevation

11.27There is vegetation growing in the guttering, the weight of which is causing the guttering to bow at the right hand side.

The Tribunal observed vegetation growing in the gutters at the inspection.

Photographs were taken during the inspection and are attached as a Schedule to this report.

12. The Hearing.

The Tribunal held a video Webex conference at 14.00 pm on 25th April 2025. The Landlord, Fiona Carruthers, and her solicitor Mr Edment, attended the hearing. The Third Party did not attend the hearing.

12.1 Mr Edment advised the Tribunal as follows:

12.1.1 He confirmed that Ms Carruthers accepted the terms of the Schedule of Photographs that had been prepared by the Tribunal following the reinspection on 2nd April 2025.

12.1.2 He confirmed that the Property was owned jointly by Graeme and Fiona Carruthers and they were joint landlords.

12.1.3 He explained that Graeme and Fiona Carruthers intended to sell the Property and were happy to give the Tribunal an undertaking to complete the works within two months.

The Tribunal adjourned the hearing for a short time and when the hearing recommenced Mrs Taylor advised Mr Edment that the Tribunal were not prepared to accept the suggested undertaking as the Tribunal would have no control over the works being completed.

13. Decision.

13.1 The Tribunal made the following findings in fact:

13.1.1 The front window in the lounge is cracked.

13.1.2 The smoke detector in the lounge is not interconnected.

13.1.3 The smoke detector in the kitchen is not interconnected.

13.1.4 The isolator switch at the bottom right hand wall in the kitchen was not fixed to the wall.

13.1.5 The cooker isolator switch and plug were not fixed to the wall.

13.1.6 Wallpaper in the kitchen is peeling from the wall.

13.1.7 The back door does not seal properly and day light can be seen down the right hand side.

13.1.8 The smoke detector in the downstairs hall is not interconnected.

13.1.9 The smoke detector in the upper hall is not interconnected.

13.1.10 The main light in the bathroom does not work.

13.1.11 There was an area of black mould/ damp on the bathroom ceiling.

13.1.12 There was an area of black mould on the ceiling of bedroom 3.

13.1.13 There was an area of black mould on the ceiling of bedroom 2.

13.1.14 Some of the wall paper in Bedroom 2 was peeling away from the external wall.

13.1.15 The external soffit board above bedroom 2 at the rear of the Property was unsecured.

13.1.16 There is vegetation growing in the guttering at the front and rear of the Property.

13.1.17 The fence and gate accessing the back garden are broken.

13.2 In connection with the requirements of the Repairing Standard:

13.2.1 The Property is not wind and watertight and in all other respects reasonably fit for human habitation (Section 13(1)(a) of The Housing (Scotland) Act 2006).

The Tribunal determine that condition of the back door already stated and the presence of mould/ dampness on the ceiling of the bathroom and bedrooms 2 and 3 results in them not being wind and water tight and in all other respects reasonably fit for human habitation.

13.2.2 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 (Section 13(1) (b) of The Housing (Scotland) Act 2006).

The Tribunal determine that the condition of the cracked lounge window; the external soffit board above bedroom 2 at the rear of the Property; the vegetation growing in the gutters at the front and rear of the Property and the broken fence and gate in the rear garden, as already detailed, results in them not being in a reasonable state of repair and proper working order.

13.2.3 The installations in the house 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 proper working order (Section 13(1) (c) of The Housing (Scotland) Act 2006).

The Housing (Scotland) Act 2014 introduced the requirement for landlords to have an Electrical Installation Condition Report (EICR) carried out on all electrical installations, fixtures and fittings within their rental properties. All tenancies must have a valid EICR, a copy of which must be provided to the tenant.

The Tribunal determine that the fact that (i) the Landlord has not produced a valid EICR certificate and (ii) the condition of the isolator switch at the bottom right hand wall of the kitchen, the cooker isolator switch and the main light in the bathroom, already explained, results in a breach of the Repairing Standard.

13.2.4 Any fixtures, fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and proper working order. (Section 13(1) (d) of The Housing (Scotland) Act 2006).

The Tribunal determine that wallpaper in the kitchen is a fixture and the fact that it is peeling results in it not being in a reasonable state of repair.

13.2.5 The house meets the tolerable standard. (Section 13(1) (h) of The Housing (Scotland) Act 2006).

The Tribunal acknowledged that the statutory guidance requires:

- One functioning smoke alarm in the room which is frequently used by the occupants for general daytime living purposes.
- One functioning smoke alarm in every circulation space, such as hallways and landings.

- One heat alarm in every kitchen.
- All smoke and heat alarms to be ceiling mounted and
- All alarms should be interlinked.

The Tribunal determine that the fact that the heat and smoke detectors in the Property are not interlinked is a breach of the statutory guidance.

14. The Tribunal accordingly determine that the Landlords have failed to comply with the duties imposed by Sections 13 (1)(a)(b)(c)(d) and (h) of the Act, as stated.

15. The decision of the Tribunal was unanimous.

Appeal

16. 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

Chairperson 29th April 2025

Housing and Property Chamber

First-tier Tribunal for Scotland



16 Ashgrove Crescent, Ecclefechan DG11 3EA

FTS/HPC/RT/24/1655

Schedule of photographs

All photographs were taken on April 2, 2025.



Photograph 1: rear elevation.

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Photograph 2 and 3: Downstairs hallway: Electric storage heater



Photograph 4: Downstairs hallway: Electric storage heater not attached to wall



Photograph 5: Downstairs hallway: Smoke detector (not interlinked)



Photograph 6: Living room: Front window cracked



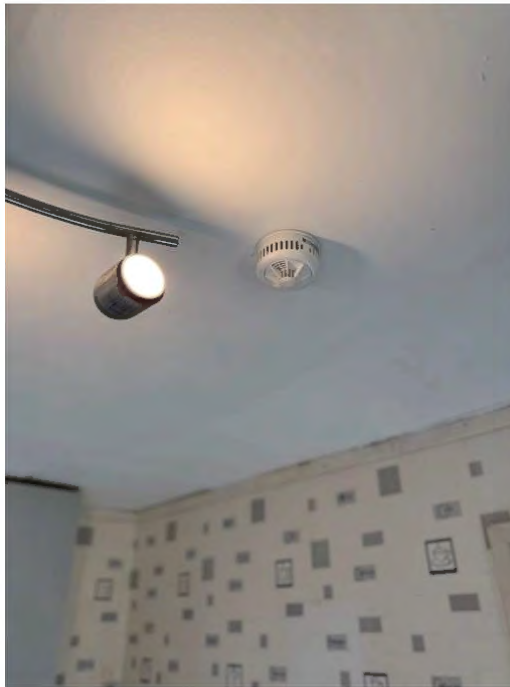
Photograph 7: Living room: Smoke detector (not interlinked)



Photographs 8 and 9: Living room: Electric heater



Photograph 10: Kitchen: Heat detector (not interlinked)



Photograph 11: Kitchen: Lighting



Photograph 12: Kitchen: Isolator switch – bottom right hand wall (from back door)



Photograph 13: Kitchen: Cooker isolator/plug – not fixed to wall



Photograph 14: Kitchen: Cooker space – bare wires



Photographs 15 and 16: Kitchen: Leak from bathroom and peeling wallpaper



Photograph 17: Kitchen: mould to ceiling



Photograph 18: Kitchen: Ill-fitting back door



Photograph 19: Upstairs landing: Smoke detectors (not interlinked)



Photograph 20: Bathroom: Light switch and shower switch (light not working)



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Photograph 21: Bathroom: Bare wire coming into the bathroom (heated towel rail removed)



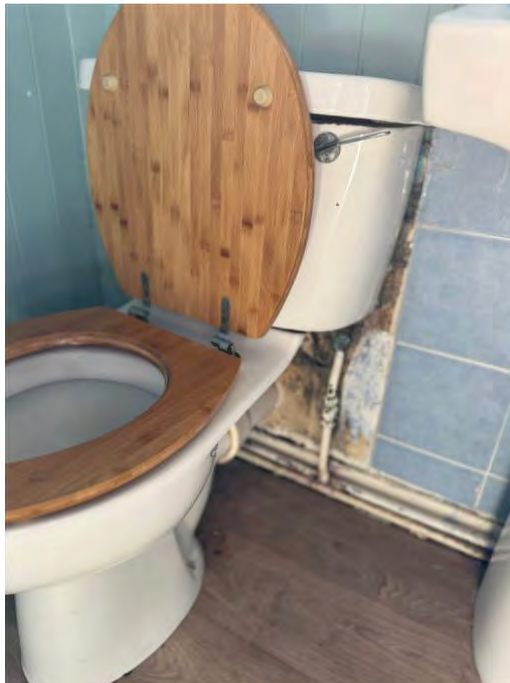
Photograph 22: Bathroom: Mould to ceiling and heater



Photograph 23: Bathroom: Mould to ceiling and extractor unit



Photograph 24: Bathroom: Mould behind toilet



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Photographs 25 and 26: Bedroom 3 (front): Mould to external wall



Photograph 27: Bedroom 3 (front): Electrical heater



Photograph 28: Bedroom 3 (front): Isolator switch (tape removed)



Photograph 29: Bedroom 2 (rear): Electric heater

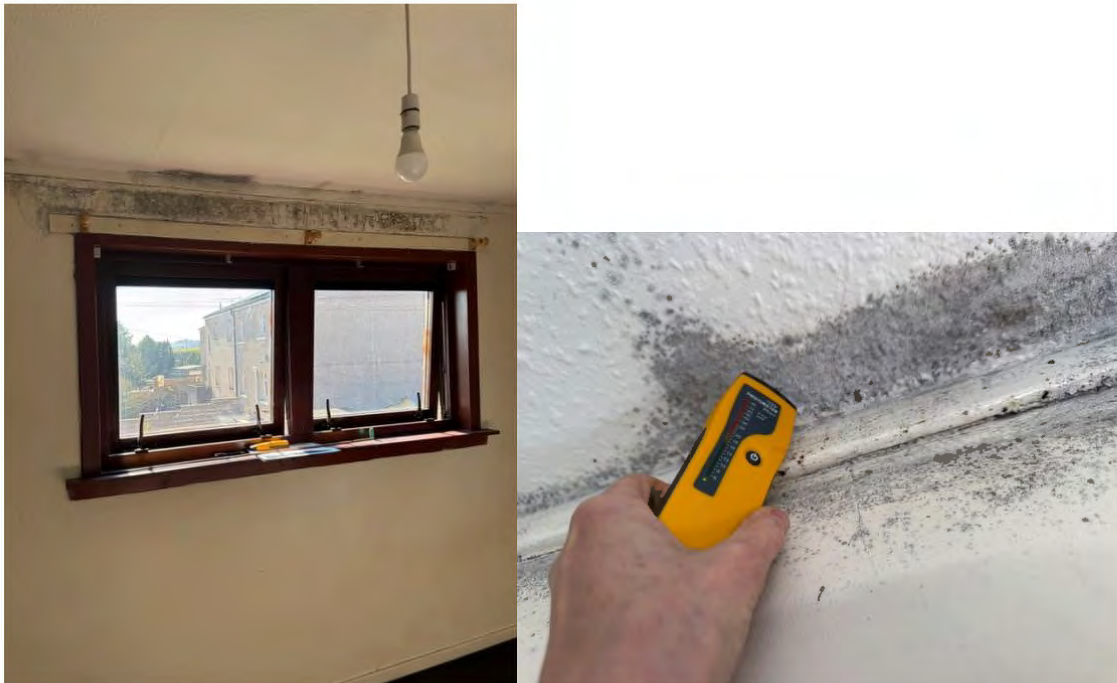


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Photograph 30: Bedroom 2 (rear): Mould to ceiling; window and curtain pole fascia



*Photographs 31 and 32: Bedroom 1 (front):
Mould to ceiling and external wall peeling wallpaper*



Photograph 33: Bedroom 1 (front): Electric heater

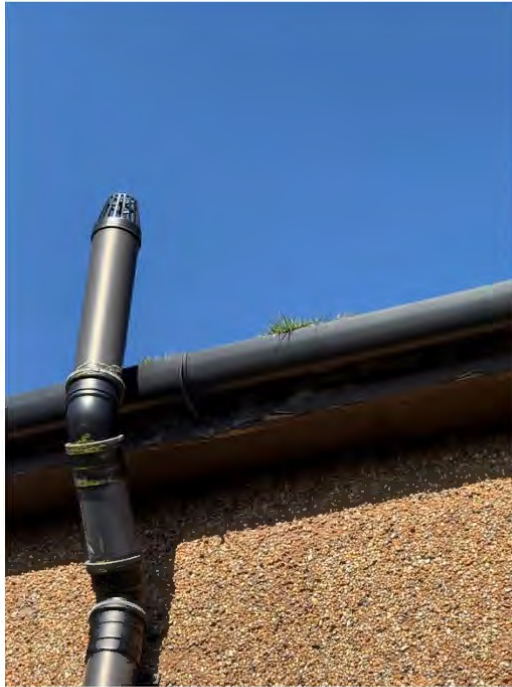


Photograph 34: Rear elevation: Soffit board not secured



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Photograph 35: Rear elevation: Vegetation to guttering



Photographs 36 and 37: Rear elevation: Fence and gate broken



Photograph 38: Rear elevation: Fence and gate broken



Photographs 39 and 40: Front elevation: Vegetation to guttering

