

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

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**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/24/3890**

**Re: 26 Strathmartine Road Dundee DD3 7RJ ("the Property")**

**Parties:**

**Mr Frank Yorke, Moorcroft, Old Whisky Road, Auchterhouse, Dundee DD3 0RD  
("the Landlord")**

**Mr Robert Walker ("the former Tenant")**

**Tribunal Members:**

**Graham Harding (Legal Member) and David Godfrey(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 made an application to the Tribunal dated 20 August 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 the Landlord had failed to comply with his duty to ensure that the property meets the repairing standard. The former Tenant 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 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:-

- 1) The shower room door frame was split.
  - 2) Shower room roof needed repainting and had black mould.
  - 3) Shower room floor tiles were cracked and the seal was coming away from the shower cubicle.
  - 4) The bathroom towel rail had wires showing.
  - 5) The storage heaters throughout the property were not up to standard.
  - 6) There was damp in the small bedroom facing Strathmartine Road.
  - 7) The rear bedroom window was leaking at the roof and the window needed repair.
  - 8) The electric box doors needed replaced.
  - 9) The outside light facing the alley way needs a new bulb.
  - 10) The front bedroom facing Strathmartine Road is showing evidence of water ingress.
  - 11) The ceiling and wall in the front bedroom are damp.
  - 12) There are sagging floorboards in the front bedroom.
  - 13) The window in the bedroom adjacent to the front bedroom drops when fully opened.
  - 14) The hall carpet is worn.
  - 15) The living room wall facing the alley and the wall facing Strathmartine Road are suffering from penetrating damp.
  - 16) The kitchen wall facing the alley is suffering from penetrating damp.
  - 17) The rear bedroom wall facing the alley is suffering from penetrating damp.
  - 18) The front door is not wind proof.
3. By Notice of Acceptance dated 7 October 2024 a legal member of the Tribunal with delegated powers accepted the application and referred the application under Section 22 (1) of the Act to a Tribunal.
  4. By email dated 24 February 2025 the former Tenant advised the Tribunal that he had vacated the property and was no longer the Tenant.
  5. In accordance with Schedule 2 paragraph 7(3) of the Act the Tribunal determined to continue to determine the application and issued a Minute of Continuation.
  6. The Tribunal also issued Directions to the Landlord dated 3 March 2025 requiring the Landlord to provide a report from a damp proofing specialist.
  7. The Landlord submitted written representations to the Tribunal dated 28 February 2025.
  8. The Tribunal received a report from Hampton Timber Specialist (Dundee) Ltd by post on 28 April 2025.
  9. The Tribunal carried out an inspection of the property on the morning of 21 May 2025. The Landlord's letting Agent, Mr Struan Baptie provided the Tribunal with

access to the property but did not remain for the inspection. The Landlord did not attend the inspection. A copy of the inspection report is attached as a schedule to this decision.

### **The Hearing**

10. A hearing was held at Endeavour House, Dundee on 21 May 2025. The Landlord, Mr Frank Yorke attended in person.
11. Mr Yorke advised the Tribunal that the property needed a new roof to both the front and rear of the building. Mr Yorke explained that the building dated back to 1840 and the roof was at the end of its useful life. Mr Yorke also advised the Tribunal that the lathe and plaster walls facing Strathmartine Road were suffering from penetrating damp and required to be stripped back and a membrane installed and reinstated. Mr Yorke went on to say that responsibility for the roof repair lay with two other owners and one owner was slow in agreeing to sharing the cost of the repair which was estimated to be in the region of £30000.00. Mr Yorke explained that the biggest issue was the specialist type of scaffolding required due to the limited access that was available. Mr Yorke advised the Tribunal that although one of the owners had not yet agreed to meeting the cost of the repairs, he had arranged funds to meet the cost and was going to go ahead with the repairs before the onset of winter. Mr Yorke also advised the Tribunal that it was his intention to then carry out a complete refurbishment of the property including upgrading the kitchen and attending to the various issues that had been raised by the former tenant.
12. The Tribunal referred Mr Yorke to the issues raised by the former tenant in his letter of 28 July 2024 and Mr Yorke did not take issue with them. Mr Yorke advised the Tribunal that he had a good relationship with the former tenant and had carried out various repairs to the roof to try to remedy the issues but that these were only temporary. Mr Yorke also said he had replaced some of the single glazed windows to help with condensation issues.
13. The Tribunal noted that the report from Hamptons Timber Specialist (Dundee) Limited made reference to the walls drying out and had made no reference to further work being necessary. Mr Yorke advised the Tribunal that there was an earlier report recommending the removal of the lathe and plaster walls and that in wet weather the walls were damp. Mr Yorke said that the cost of repairs was about £5000.00.
14. Mr Yorke went on to say that the property needed a new heating system and that it was his intention to install this during the refurbishment of the property. Mr Yorke thought it might take about nine months to complete all the work.

### **Findings in Fact**

15. The shower room door frame is split.
16. The shower room ceiling needs repainted.

17. There are cracked tiles on the shower room floor.
18. The bathroom towel rail has bare wires showing and needs repair.
19. The roof of the building serving the property requires to be replaced.
20. The lathe and plaster walls in the rooms facing Strathmartine Road are suffering from penetrating damp.
21. The window in the bedroom adjacent to the front bedroom drops when opened fully and requires to be repaired.
22. The Landlord intends to carry out a complete refurbishment of the property including upgrading the kitchen and replacing the heating system and replacing carpets and redecorating the property.

### **Reasons for Decision**

23. The Tribunal took account of the oral submissions made by the Landlord with regards to the condition of the roof of the building serving the property. It was apparent that notwithstanding the various repairs that had been carried out the property would continue to suffer from water ingress unless and until the roof was renewed. The tribunal was satisfied that it was the Landlord's intention to proceed with the roof renewal even although one owner had not agreed to fund his share of the cost. The Tribunal also accepted that the Landlord intended to carry out an extensive refurbishment of the property and in addition to dealing with the water ingress will also upgrade the heating system and carry out other improvements. Nevertheless, given the condition of the property the Tribunal was satisfied that it did not meet the repairing standard in that it was not wind and watertight and in all other respects reasonably fit for human habitation. The Tribunal was also satisfied given the condition of the roof that the structure and exterior of the property was not in a reasonable state of repair nor were the fixtures and fittings provided by the Landlord. Therefore, in the circumstances the Tribunal considered it appropriate to make a Repairing Standard Enforcement Order but will give the Landlord sufficient time to complete the work he intends to carry out.

### **Decision**

24. The Landlord has failed to comply with his duty under Section 14 (1)(b) of the Act. The Tribunal's decision is 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.**

**In terms of Section 63 of the Act, 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.**

**Graham Harding  
Legal Member**

**23 May 2025  
Date**