

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



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

**Repairing Standard Enforcement Order under Section 24(2) of the Housing (Scotland) Act 2006**

**Chamber Ref: FTS/HPC/RT/24/2237**

**Re: Property at First Floor Flat Left, Old Police Station, Nursery Lane, Aberdeenshire, Inverurie, AB51 3XP under title reference ABN9238 ("the Property")**

**Parties:**

**Adrian Ogg, Ramana, Barthol Chapel, Aberdeen, Inverurie, AB51 8TB ("the Landlord")**

**Aberdeenshire Council, Gordon House, Blackhall Road, Inverurie, Aberdeenshire, AB51 3WA ("the Third Party Applicant")**

**Tribunal Members:**

**Ruth O'Hare (Legal Member) and Angus Anderson (Ordinary Member)**

Whereas in terms of their decision dated 1 July 2025, the First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the landlord has failed to comply with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 ("the Act") and in particular that the landlord has failed to ensure that:-

- (i) the house is wind and watertight and in all other respects reasonably fit for human habitation;
- (ii) the installations in the house for the supply of water, gas, electricity (including residual devices) and any other type of fuel and for sanitation, space heating by a fixed heating system and heating water are in a reasonable state of repair and in proper working order;
- (iii) any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order; and
- (iv) the house has an interlinked system of fire and smoke alarms and adequate carbon monoxide alarms.

the Tribunal now requires the landlord to carry out such work as is necessary for the purposes of ensuring that the house concerned meets the Repairing Standard and that any damage caused by the carrying out of any work in terms of this Order is made good.

In particular the Tribunal requires the landlord to:-

- (i) Submit a valid and up to date gas safety certificate in respect of the property as required by the Gas Safety (Installation and Use) Regulations 1998 to the Tribunal;
- (ii) Submit a valid and up to date electrical installation condition report (EICR) in respect of the property as required by sections 19A and 19B of the Housing (Scotland) Act 2006 to the Tribunal;
- (iii) Submit evidence of up to date portable appliance testing of the cooker, washing machine and fridge freezer to the Tribunal;
- (iv) Submit evidence showing the installation of smoke detectors, heat detectors and carbon monoxide detectors within the property in compliance with the requirements set out in the Housing (Scotland) Act 2006; and
- (v) Instruct a report from a damp and condensation specialist with specific reference to the alleged damp in the sitting room, and the mould growth in the bedrooms, submit the report to the Tribunal for consideration, and carry out any works thereafter as directed by the Tribunal. The report should identify the cause of any water ingress or condensation, and include remedial recommendations, where appropriate.

The Tribunal orders that the works specified in this Order must be carried out and completed within a period of one month from the date of service of this Notice.

### **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.

**Please note that in terms of section 28(1) of the Act, a landlord who, without reasonable excuse, fails to comply with a RSEO commits an offence liable on summary conviction to a fine not exceeding level 3 on the standard scale. A**

**landlord (and that includes any landlord's successor in title) also commits an offence if he or she enters into a tenancy or occupancy arrangement in relation to a house at any time during which a RSEO has effect in relation to the house. This is in terms of Section 28(5) of the Act.**

In witness whereof these presents type written on this and the preceding page(s) are executed by Ruth O'Hare, Chairperson, c/o Glasgow Tribunals Centre, 20 York Street, Glasgow, G2 8GT in Aberdeen on 1 July 2025 before this witness:-

**R O'Hare**

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



**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/RT/24/2237**

**Re: Property at First Floor Flat Left, Old Police Station, Nursery Lane,  
Aberdeenshire, Inverurie, AB51 3XP under title reference ABN9238 ("the  
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**Parties:**

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Landlord")**

**Aberdeenshire Council, Gordon House, Blackhall Road, Inverurie,  
Aberdeenshire, AB51 3WA ("the Third Party Applicant")**

**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") unanimously determined that the Landlord had failed to comply with the duties imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 ("the Act"). The Tribunal accordingly made a Repairing Standard Enforcement Order ("RSEO") as required by Section 24(2) of the Act.

**Background**

- 1 This is an application under section 22(1A) of the Housing (Scotland) Act 2006 ("the Act") by the Third Party Applicant for a determination that the Landlord has failed to comply with the duties imposed by Section 14(1)(b) of the Act.
- 2 The application stated that the Landlord had failed to comply with the repairing standard for the following reasons:-
  - (i) There was no evidence of the necessary gas and electrical certification required by legislation;

- (ii) There was damp in the living room and mould in the bedrooms, both of which required investigation;
  - (iii) The kitchen extractor fan required to be vented outside to reduce the risk of condensation;
  - (iv) The bathroom window was difficult to open; and
  - (v) The property did not appear to have an interlinked system of fire and smoke alarms, nor adequate carbon monoxide alarms.
- 3 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 8 November 2024 with a hearing set for later that day. Parties were invited to make written representations in advance of the hearing.
- 4 On 23 August 2024 the Tribunal received an email from the Third Party Applicant confirming that the tenants had moved out of the property. The Third Party Applicant wished to continue with the application as it appeared the damp in the property was affecting the property below.
- 5 On 29 October 2024 the Tribunal received an email from the Landlord stating that he had no knowledge of the application. The Tribunal responded to ask whether the Landlord had received the application paperwork. The Landlord advised that he had not. The Tribunal provided the Landlord with a copy of the application papers by email on 29 October 2024. The Landlord asked for a postponement of the inspection and hearing to allow him time to review the application paperwork and seek legal advice. The Landlord subsequently advised that he had not been made aware of any issues with damp at the property and believed it was due to the former tenant's behaviour. He was intending to sell the property.
- 6 On 5 November 2024 the Tribunal emailed the Landlord to confirm that the inspection and hearing would proceed as scheduled. The Landlord responded to again state that he was unaware of why the application had been made as there was no disrepair he knew of. He explained that he did not intend to let the property out again as he was going to sell it.
- 7 On 5 November 2024 the Tribunal received photographs from the Third Party Applicant as evidence of the damp and mould at the property.
- 8 On 6 November 2024 the Tribunal received a further postponement request from the Landlord. He explained that he was in hospital with his daughter and would be unable to attend the inspection. The Landlord acknowledged receipt of the photographs from the Third Party Applicant. He confirmed that he had arranged for a mould inspector to attend the property and would submit photographs in due course. On 7 November 2024 the Tribunal wrote to parties confirming that the inspection and hearing would be postponed.
- 9 A further inspection and hearing was scheduled for 13 February 2025. Notification was given to the parties on 6 December 2024.

## **The inspections**

- 10 The Tribunal attended the property at 10am on 13 February 2025. Mrs Emma Bain represented the Third Party Applicant. The Landlord did not attend, nor was he represented. The Tribunal waited until 10.20am but were unable to gain access to the property, despite knocking on the door and ringing the bell on several occasions. The Tribunal made inquiries with neighbouring residents who confirmed that the property appeared to be occupied by new tenants.
- 11 At approximately 11.10am on 13 February 2025 the Tribunal received an email from the Landlord advising that nobody from the Tribunal had turned up for the inspection.
- 12 The hearing took place following the inspection at 11.30am on 13 February 2025. Mrs Bain attended on behalf of the Third Party Applicant. The Landlord did not join the call, nor was he represented. The Tribunal therefore determined to adjourn the hearing to allow for the inspection to be rescheduled and a hearing to be assigned thereafter. A hearing note was issued to the parties emphasising the importance of ensuring access to the property was allowed on the rescheduled date.
- 13 On 18 February 2025 the Tribunal received an email from the Landlord advising that the property was not being rented out, however a prospective purchaser had access to the property and had moved some of their belongings there. The Landlord queried again why the inspection was required given his intention to sell the property. On 26 February 2025 the Tribunal responded to the Landlord explaining that the application continued despite the former tenant's departure in light of the nature of the disrepair highlighted in the application. The Tribunal was therefore required to carry out an inspection of the property to determine whether or not it complied with the Repairing Standard. The Tribunal asked the Landlord to provide details of the new owner in the event that the property was sold. The Tribunal advised the Landlord that he must ensure access was permitted on the rescheduled date, and that notification would be sent to any occupants of the property.
- 14 The inspection and hearing was rescheduled for 17 April 2025. Notification was given to the parties. Said notification was sent to the Landlord by email and served upon him by sheriff officers.
- 15 The Tribunal attended the property on 17 April 2025 at 10am. Mrs Emma Bain represented the Third Party Applicant. The Landlord was not present nor represented. The Tribunal waited until approximately 10.20am. The Tribunal subsequently made inquiries with neighbouring residents who confirmed that the property appeared to still be occupied by new tenants.

## **The hearing**

- 16 The Tribunal held a hearing on 17 April 2025 at 11.30am. Mrs Emma Bain represented the Third Party Applicant. The Landlord was not present nor represented. The Tribunal was alerted to an email from the Landlord that had been received by the Tribunal on 15 April 2025 requesting another postponement of the inspection. The Landlord stated that contractors were carrying out work in the property which involved lifting the flooring and it was therefore unsafe.
- 17 The Tribunal determined to proceed with the hearing in the absence of the Landlord, having been satisfied that the Landlord had been given proper notification and had been reminded on numerous occasions of the importance of cooperating with the Tribunal regarding the application. This was the fourth postponement request from the Landlord. The application had been received by the Tribunal on 17 May 2024 and in light of the potential risk to occupants arising from the alleged disrepair the Tribunal considered that it would be unreasonable to allow any further delay. The Tribunal therefore proceeded to hear evidence from Mrs Bain.
- 18 As a preliminary matter the Tribunal noted that there was no tenancy agreement provided with the application. Mrs Bain confirmed that the Landlord had not provided the former tenants with a tenancy agreement. However council tax records confirmed their occupation of the property throughout the term of the tenancy. The former tenants had moved out and Mrs Bain understood that new tenants had moved in.

### Damp and condensation

- 19 With regard to the damp and condensation, Mrs Bain spoke to the photographs that had been submitted which showed the sitting room and the bedrooms. Mrs Bain confirmed that the photographs had been taken on 4 March 2024 and Mrs Bain had inspected the property 10 days later. She confirmed that the photographs were an accurate representation of the condition of the property, based on what she had witnessed.

### Certification

- 20 Mrs Bain confirmed that the Landlord had failed to produce a gas safety certificate or an electrical installation condition report ("EICR") for the property. The Landlord had also provided a cooker, washing machine, and fridge freezer and there was no evidence that the appliances had been tested. The former tenants had advised that the freezer didn't work.

### Windows

- 21 With regard to the windows, Mrs Bain advised that they appeared in a reasonable state of repair, however they were difficult to open and shut. The velux window in the kitchen was particularly difficult to operate. Mrs Bain had

tested the windows during her inspection and had to perch on the kitchen units to open it. There was no opening device or pole to assist. Mrs Bain felt that the windows needed to be serviced.

*Kitchen extractor fan*

- 22 Mrs Bain explained that the property had a combined sitting room and kitchen. The kitchen extractor fan was not vented outside and the moisture was blown back into the kitchen.

*Smoke and heat detection*

- 23 Mrs Bain advised that there were smoke alarms in the kitchen and the hallway but she was unaware if these functioned correctly or were interlinked. The cover of the smoke detector in the hallway was missing. Mrs Bain did not know if the detector in the kitchen was a smoke and heat detector. Mrs Bain did not know if there were carbon monoxide alarms in the property. She could not recall where the boiler was located, however she could seek further information from the former tenants on this point.
- 24 Mrs Bain noted that neighbouring residents had advised her of a leak from the property to the downstairs flat. She understood this was coming from the shower. This had not however been included in the application as she was unaware of it at the time.

**Further procedure**

- 25 Following the hearing on 17 April 2025 the Tribunal received an email from the Landlord advising that a plumber had attended the property following a complaint from the downstairs neighbour regarding the water leak. The plumber had found no evidence of any leak. It was believed the water was coming from a neighbouring property. The downstairs neighbour had also caused damage to the property externally and were refusing to fix this.
- 26 The Tribunal also received an email from Mrs Bain following the hearing confirming that she had spoken with the former tenants. They had confirmed that there was no written tenancy agreement. The tenancy had commenced on 26 May 2022 and the former tenants moved out on 21 June 2024. The rent was paid weekly by bank transfer. The damp in the sitting room had remained evident when the former tenants moved out of the property. Neighbours had indicated the cause of the damp may be due to issues with the chimney stack. The former tenants confirmed that the gas boiler was located in the attic. They did not know if there were any carbon monoxide detectors. They did not know if the smoke detectors were interlinked and operational. The fridge freezer was located in an outbuilding attached the property. It did not work correctly and was not used as a result.
- 27 On 19 May 2025 the Tribunal issued a Direction to the Landlord requiring him to provide:-



- (i) A valid and up to date gas safety certificate in respect of the property as required by the Gas Safety (Installation and Use) Regulations 1998;
- (ii) A valid and up to date electrical installation condition report (EICR) in respect of the property as required by sections 19A and 19B of the Housing (Scotland) Act 2006;
- (iii) Evidence of up to date portable appliance testing of the cooker, washing machine and fridge freezer;
- (iv) Evidence showing the installation of smoke detectors, heat detectors and carbon monoxide detectors within the property in compliance with the requirements set out in the Housing (Scotland) Act 2006; and
- (v) A recent report from a damp and condensation specialist with specific reference to the alleged damp in the sitting room, and the mould growth in the bedrooms. The report should identify the cause of any water ingress or condensation, and include remedial recommendations, where appropriate.

28 The Landlord was asked to provide the information no later than 10 June 2025, failing which the Tribunal may proceed to make a decision on the application without further notice. No response was received from the Landlord.

### **Findings in fact**

- 29 The Landlord and the former tenants entered into a verbal tenancy agreement in respect of the property, which commenced on 26 May 2022. The tenancy between the parties terminated on 21 June 2024.
- 30 The tenancy between the parties was a private residential tenancy as defined by section 1 of the Private Housing (Tenancies) (Scotland) Act 2016.
- 31 On 17 May 2024 the Tribunal received an application from the Third Party Applicant under section 22(1A) of the Act.
- 32 The property has suffered from damp and mould. In particular there is evidence of damp staining in the sitting room, and mould growth in the bedrooms.
- 33 The property has a gas boiler. There is no known gas safety certificate for the property. There is no evidence of carbon monoxide detectors in the property.
- 34 The former tenants were provided with a cooker, fridge freezer and washing machine under the terms of the tenancy. There is no evidence of portable appliance testing in respect of these appliances.
- 35 There is no known electrical installation condition certificate for the property.
- 36 The property has a smoke alarm in the hallway and in the kitchen. The cover for the smoke alarm in the hallway is missing. There is no evidence to show that the alarms are interlinked and functioning correctly.

## Reasons for Decision

- 37 The Tribunal determined the application having regard to the terms of the application, the written representations from the parties, and the submissions at the hearing. The Tribunal was satisfied having regard to all of the available evidence that there was sufficient information upon which to reach a fair determination of the application.
- 38 Section 24(1) of the Act provides that where an application is received from a Tenant under section 22(1), the Tribunal must consider whether the landlord has complied with the repairing standard duty as outlined in section 13 of the Act. If the Tribunal finds that the property does not meet the standard it must make a repairing standard enforcement order. There is no discretion available to the Tribunal in this regard.
- 39 The Tribunal notes that on three occasions it had made arrangements to inspect the property and on each of these occasions it had been prevented from doing so by the Landlord's failure to cooperate. The Tribunal has therefore taken the view that the Landlord is not just failing to cooperate with the Tribunal but it deliberately obstructing the Tribunal process. As a result, the Tribunal has been unable to inspect the property. However, the Tribunal reached the view that even if an inspection had taken place that would not have enabled the Tribunal to confirm whether the property meets the relevant part of the repairing standard relating to the safety of the electrical and gas systems and appliances. In terms of section 19A of the 2006 Act and Regulation 36 of the Gas Safety (Installation and Use) Regulations 1998, landlords have a legal duty to provide such certification. The Landlord had failed to provide any reasonable explanation as to why he had not complied with the Direction. In the absence of any evidence from the Landlord, the Tribunal therefore considered that it could reasonably infer that such certification does not exist.
- 40 Furthermore, the Tribunal, in the absence of any evidence to the contrary, considered that it could reasonably infer from the submissions from the Third Party Applicant and the photographs produced that the property had issues with condensation and damp. The Landlord has not sought to produce any evidence to the contrary and Mrs Bain had given clear evidence of witnessing mould in the property when she had visited the former tenants.
- 41 The issues highlighted in the application raise significant health and safety concerns for any occupants of the property. Whilst the Landlord had sought to argue that the property is not currently let, the Tribunal did not find this to be credible. The Tribunal took into account the Landlord's evasive approach to the application, along with the information from neighbouring residents, which suggested otherwise.
- 42 The Tribunal therefore concluded that the property does not meet the Repairing Standard for the above reasons and in terms of the following provisions of the Act:

- (i) In respect of 13(1)(a), the house is not wind and watertight and in all other respects reasonably fit for human habitation;
- (ii) In respect of 13(1)(c) the installations in the house for the supply of water, gas, electricity and any other type of fuel are not in a reasonable state of repair and in proper working order;
- (iii) In respect of 13(1)(d) any fixtures, fittings and appliances provided by the landlord under the tenancy are not in a reasonable state of repair and in proper working order.
- (iv) In respect of 13(1)(h), the house does not meet the tolerable standard, in that it does not have an interlinked system of fire and smoke alarms and adequate carbon monoxide alarms.

43 The Act states that where a Tribunal decide that a landlord has failed to comply with their duty in that respect, the Tribunal "must by order require the landlord to carry out such work as is necessary for the purpose of ensuring that the house concerned meets the repairing standard". The Tribunal accordingly determined to make a Repairing Standard Enforcement Order as required in terms of Section 24(2) of the Act. The Tribunal further determined that an appropriate timescale for the works to be carried out is one month.

44 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.**

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**R O'hare**

1 July 2025

**Date**