



**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**

Reference number: FTS/HPC/RP/24/2968

**Re: Property at Railway Cottage East, Easter Coltfeld, Alves, Elgin, Moray, IV30
8XA (“the Property”)**

The Parties:

**Mr George Milliken (Deceased), Railway Cottage West, Easter Coltfeld, Alves,
IV30 8XA (“the Landlord”)**

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) unanimously determined that the Landlord had complied with the duties imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 (“the Act”).

Background

- 1 This is an application under section 22(1A) of the Housing (Scotland) Act 2006 by Peter Simon and Asako Furutani (“the former Tenants”). The former Tenants sought 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) The disability access ramp was rotten and required resurfacing;
 - (ii) There was no means of isolating the water to the property internally;
 - (iii) The smoke alarms were not interconnected, and some were defective;
 - (iv) The fans in the bathroom and ensuite were defective;
 - (v) A chimney pot had a large hole in it and was a nesting spot for birds;
 - (vi) Internal woodwork required oil and varnish;
 - (vii) The toilet in the ensuite kept overflowing and had to be manually shut off;
 - (viii) The thermostatic radiator valves (“TRVs”) needed serviced and the one in the main bathroom was not fitted properly;
 - (ix) A kitchen cupboard had a loose knob;
 - (x) Exterior window sills were lacking in paint or varnish and were beginning to chafe and rot;
 - (xi) The conservatory outside door was badly fitted with gaps for air flow and the sitting room north window was also not sealed;

- (xii) There was no stat on the heating;
 - (xiii) The conservatory furniture was in poor repair, and had been replaced by the former Tenants;
 - (xiv) An old desk had been left by the previous tenants;
 - (xv) The roof was missing slates, resulting in water damage to the hall ceiling and a rat infestation;
 - (xvi) The guttering dripped in several places;
 - (xvii) A fire escape window in the bedroom failed to open;
 - (xviii) There were two arcing socket switches in the sitting room and kitchen;
 - (xix) A cover was missing from the light shaft in the bedroom;
 - (xx) The fridge and freezer were impossible to defrost as the power source was behind kitchen units;
 - (xxi) The internal décor was shabby; and
 - (xxii) The access paths had turfed over at both entrances making it slippery when wet.
- 3 The application was referred to the Tribunal for determination and Notice of Referral was served upon the Landlord under Schedule 2, Paragraph 1 of the Act. An inspection was scheduled for 23 May 2025, with a hearing to follow thereafter at Elgin Sheriff Court. Parties were invited to make written representations in advance of the hearing.
- 4 On 28 July 2024 the Tribunal received an email from the former Tenants confirming that their tenancy had ended on 1 July 2024. By Minute of Continuation dated 17 September 2024, a Legal Member of the Tribunal with delegated powers from the Chamber President determined to continue with the application as it contained significant matters which raised health and safety concerns for future tenants.
- 5 On 20 March 2025 the Tribunal received an email from Ledingham Chalmers Solicitors advising that the Landlord had passed away on 24 November 2024. Ledingham Chalmers had been appointed as agents and executors of the estate, along with Claire Friston. The Tribunal therefore provided Ledingham Chalmers with the application paperwork and notification of the inspection and hearing.
- 6 On 30 April 2025 the Tribunal received a response to the application from Ledingham Chalmers. On 2 May 2025 the Tribunal received an inventory of productions from Ledingham Chalmers which included an electrical installation condition report ("EICR"), invoice from Anderson Pest Prevention Ltd dated 5 August 2024, invoice from Gleaner dated 20 January 2023, photographs of the property, and a Schedule of Conditions Report by Tughan and Cochrane dated 25 April 2025.

The inspection

- 7 The Tribunal inspected the property at 10.00am on 23rd May, 2025. The new tenant was in attendance and permitted access. The Landlord's representative, Karen Cameron Latif of Ledingham Chalmers, was present.

- 8 The property is situated in a rural area around seven miles west of Elgin town centre. It was dry and bright during the inspection with mainly dry weather over the preceding days.
- 9 The property is a single storey, semi-detached cottage with one storey and attic rear extension. The original cottage was constructed upwards of 100 years ago and has solid stone walls and a pitched and slated roof. The rear extension appears to be around 35 years old and has timber framed, timber clad walls with a pitched and slated roof. The windows are timber framed and double glazed. There is an oil fired central heating system.
- 10 The accommodation comprises: entrance porch, hallway, bedroom 1 with en-suite shower room, bedroom 2 with en-suite shower room, bathroom, dining kitchen, rear hall/utility room. At first floor level with the rear extension, there is a lounge.
- 11 The inspection was restricted to the items contained within the application paperwork. The porch was inspected first. The outer door was found to be binding slightly at the threshold. When in the closed position, daylight could be seen around the door frame.
- 12 The hallway was inspected in relation to damp ingress. There was no obvious evidence of recent or previous water ingress to this area.
- 13 Bedroom 1 (left hand side) was inspected. The window could not be opened and appeared to be stuck fast with paint. The trickle vent could not be operated. Within the en-suite bathroom, the ceiling mounted extractor fan operated when the light was switched on and it had a run-on timer.
- 14 The en-suite of Bedroom 2 (right hand side) was inspected. There was no obvious defect to the WC. The ceiling mounted extractor fan operated when the light was switched.
- 15 The main bathroom was inspected. There is a ceiling mounted extractor fan which operated when the light was switched on. There is a relatively large hatch in the ceiling, formed by a glazed door. This appears to admit light from the light tunnel. There was a certain amount of debris on the door, which was not opened.
- 16 The kitchen was inspected. Electrical isolation switches are located adjacent to the integrated fridge and freezer.
- 17 The central heating boiler is located in the rear hall/utility room. It incorporates an electronic, programmable switch. There is no room stat. The switch for the washing machine could not be seen and is probably located behind the appliance. There is a stop cock located in the cupboard adjacent to the sink.
- 18 A limited inspection of the roof void was undertaken from the access hatch in the lounge. It could be seen that the underside of the roof of the rear extension

has been insulated with glass/rock wool. The roof void over the original cottage could not be clearly seen; part of this area appeared to have been floored.

- 19 A number of TRVs attached to the radiators were tested. All appeared to open and close smoothly.
- 20 There are smoke alarms in the entrance hall, rear entrance hall and lounge and a heat detector in the kitchen. When tested, these were found to be interlinked.
- 21 From a ground level inspection, it could be seen that there were approximately three missing slates to the original cottage and one to the rear extension and two loose slates overall. The chimney can to the right hand stack had been removed. The chimney haunching and top surface of the coping stones to the chimney could not be seen from ground level. The external cover to the light tunnel was in place. The pointing to the ridge tiles over the original building could be described as untidy, but appeared intact, as viewed from ground level.
- 22 The rainwater goods are a mixture of metal and pvc. There was a degree of surface corrosion to the metal portions. The rainwater goods appeared to be free from debris and vegetation. A small portion of the rear extension gutter, outboard of the downpipe, was off-level. It was not raining during our inspection and so the performance of the rainwater goods could not be fully assessed. However, there were no green stains to the outer walls nor splash marks to the ground around the building that would indicate ongoing leakage.
- 23 There was a certain amount of weathering to the paintwork to the front windows. No significant decay was evident.
- 24 There is a concrete access ramp to the rear door. The surface of the ramp was generally firm and even, but some areas were slightly weathered and the surface was beginning to deteriorate. The handrail was firm. There was a degree of vegetation growing over the edges of the paved areas.
- 25 Although the electrical installation was not closely inspected, there were no obvious visual defects. The tenant was questioned about arcing or flashes from switches, the response was that none was observed.
- 26 There was no obvious evidence of rodent infestation, in the form of droppings, nesting debris, odour or chewed building elements, either internally, externally or within the outbuilding.
- 27 Photographs were taken during the inspection and are included in the attached schedule.

The hearing

- 28 The hearing took place at Elgin Sheriff Court on 23 May 2025. The Tribunal heard evidence from Ms Cameron Latif who represented the Landlord.

- 29 Following the hearing the Tribunal sought further information from Ledingham Chalmers regarding the window in Bedroom 1. On 24 June 2025 the Tribunal received an email from the Ledingham Chalmers confirming that works had been carried out to the window so that it could open and close, as well as to the seal between the door and frame in the porch. Ledingham Chalmers provided photographs as evidence of this.

Findings in fact

- 30 The Applicant and former Tenant entered into a tenancy agreement in respect of the property dated 17 March 2023.
- 31 The tenancy between the parties was a private residential tenancy agreement as defined by section 1 of the Private Housing (Tenancies) (Scotland) Act 2016.
- 32 The tenancy between the parties terminated on 1 July 2024.
- 33 The disability access ramp to the rear of the property is in a reasonable state of repair.
- 34 The water to the property can be isolated internally by means of a stopcock.
- 35 The smoke alarms within the property are interlinked and in proper working order.
- 36 The extractor fans in the bathroom and ensuite are in proper working order.
- 37 The chimney pots, so far as can be ascertained from the Tribunal's inspection, are in a reasonable state of repair.
- 38 The toilet in the ensuite bathroom is in proper working order.
- 39 The TRVs are in proper working order.
- 40 The kitchen cupboards are in a reasonable state of repair, with no loose knobs.
- 41 The decorations to the exterior window sills are weathered in places, but the windows are in a reasonable state of repair.
- 42 The conservatory outside door has been re-sealed and is in a reasonable state of repair. The sitting room north window is sealed.
- 43 The roof covering is in a reasonable state of repair. There are no signs of water ingress internally.
- 44 The guttering, insofar as can be ascertained by the Tribunal's inspection, is in a reasonable state of repair.

- 45 The window in the first bedroom can be opened and closed. The window is in proper working order.
- 46 The electrical installations within the property are in a reasonable state of repair.
- 47 There is safe access to and from the property via paved areas.

Reasons for decision

- 48 The Tribunal took into account the application paperwork, the findings from the inspection, and the Landlord's written representations and evidence at the hearing. The Tribunal was satisfied that it had sufficient information upon which to reach a decision on the application.
- 49 Section 24(1) of the Act provides that where an application is received by the Tribunal under section 22(1), the Tribunal must consider whether the landlord has complied with the repairing standard duty as outlined in section 14(1)(b) of the Act.
- 50 There were several items listed within the application, such as the internal woodwork and the furniture that fell out with the requirements of the Repairing Standard, therefore the Tribunal did not consider these in reaching its decision. Insofar as the remaining items, the Tribunal was satisfied based on the evidence before it that property complies with the requirements of the Repairing Standard.
- 51 The Tribunal therefore determined that the Landlord has complied with the duty under section 14(1)(b) of the Act.
- 52 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.

Ruth O'Hare

31 July 2025

Legal Member/Chair

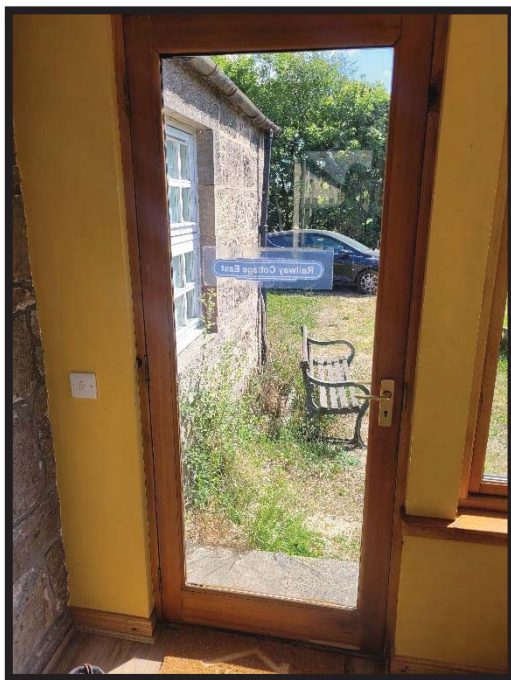
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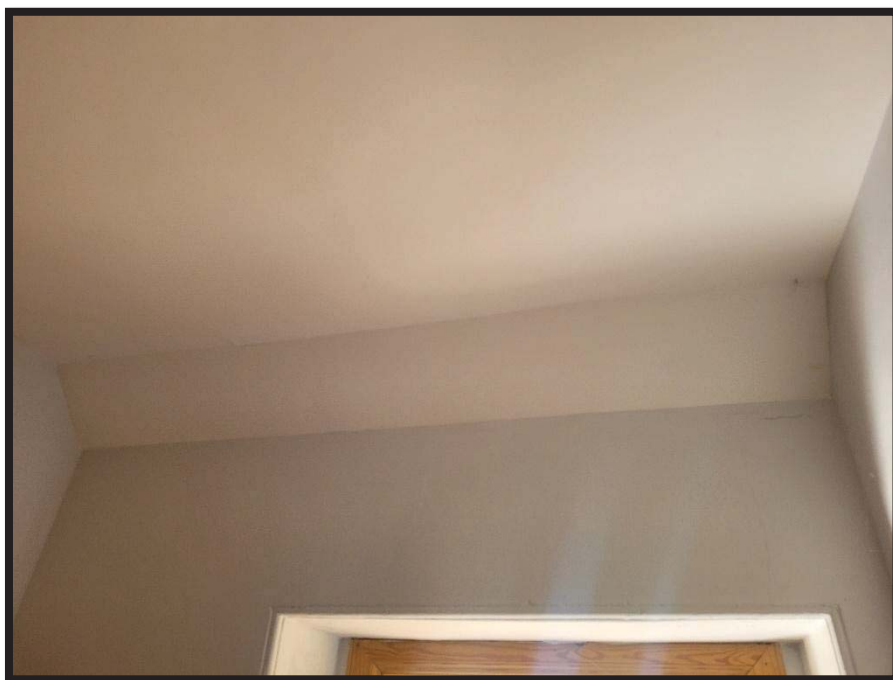
Photograph 1 Front (South elevation.



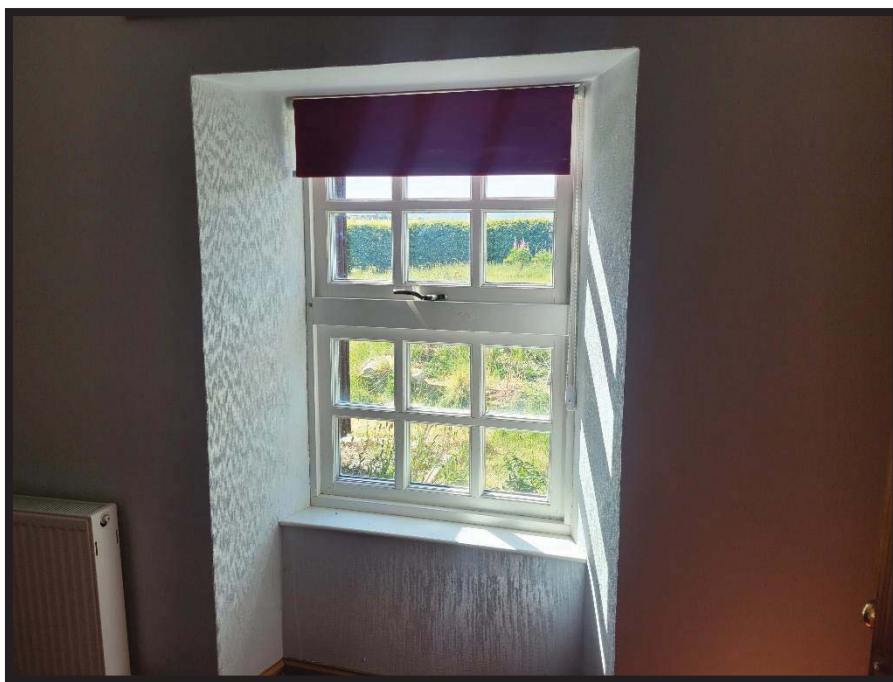
Photograph 2 Rear Elevation



Photograph 3 Porch door: Binding slightly lower right corner, slight gaps at door seal when closed.



Photograph 4 Inner hallway: Ceiling shows no evidence of water ingress.



Photograph 5 Front left bedroom: Window stuck closed



Photograph 6 Left Bedroom en-suite: Fan operational.



Photograph 7 Main Bathroom: Debris on ceiling panel, fan operational.



Photograph 8 Kitchen: Typical radiator with operational TRV.



Photograph 9 Kitchen: Isolation switches for fridge/freezer.



Photograph 10 Utility area: Boiler with integral programmer.



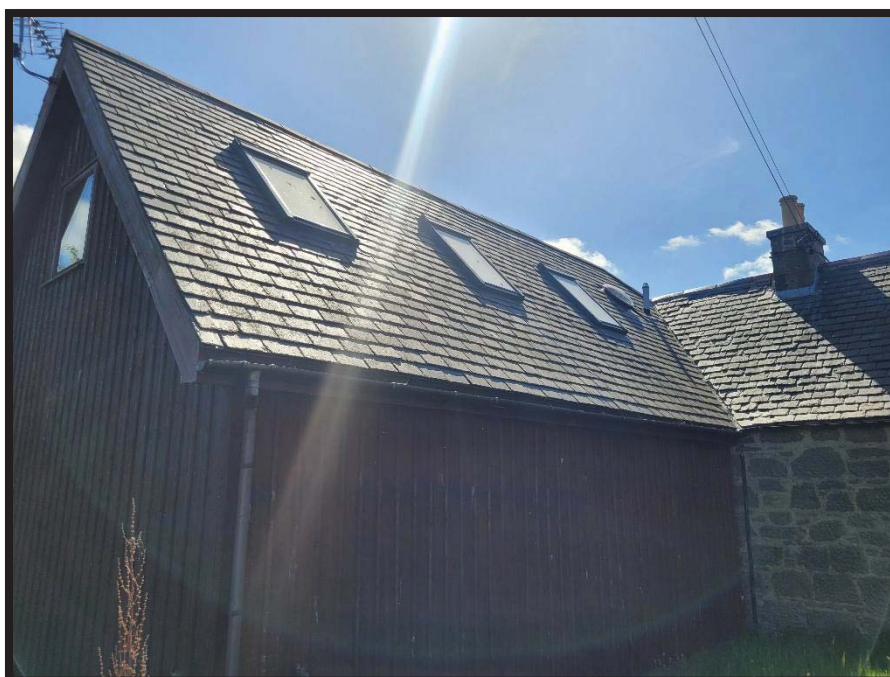
Photograph 11 Utility area: Internal water stop tap.



Photograph 12 Main roof void: Insulation seen.



Photograph 13 Rear roof slope.



Photograph 14: Rear extension roof slope.



Photograph 15 Rear extension roof slope.



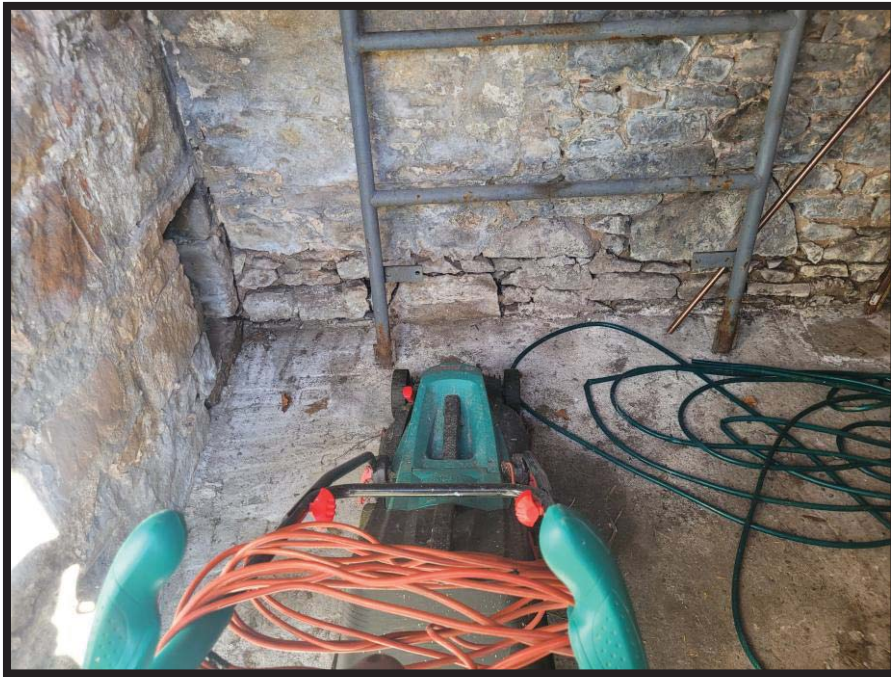
Photograph 16 Front elevation roof slope.



Photograph 17 Front elevation roof slope.



Photograph 18 Rear access ramp.



Photograph 19 Interior of outbuilding showing no current evidence of rodents.