

# **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/25/0284**

**Re: Flat 2, 46 Ardshiel Avenue, Edinburgh, EH4 7HS (“the house”)**

**Land Register Title No: MID249635**

**Mrs Kirubhasini Devarajan, Flat 2, 46 Ardshiel Avenue, Edinburgh, EH4 7HS (“the Tenant”)**

**Mrs Khaleda Aman, 7/3 Balfron Loan, Edinburgh EH4 7LA (“the Landlord”)**

**Tribunal Members – Sarah O'Neill (Legal Member) and David Godfrey (Ordinary (Surveyor) Member)**

### **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 her 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 failed to comply with the said duty. The tribunal therefore issues a Repairing Standard Enforcement Order. The tribunal’s decision is unanimous.

### **Background**

1. By application received on 23 January 2025, the tenant applied to the tribunal for a determination that the landlord had failed to comply with her duty under Section 14(1) of the Act.
2. In her application, the tenant stated that she believed the landlord had failed to comply with her duty to ensure that the house met the repairing standard

as set out in section 13(1) (a), (b), (c), (d), (e) and (h) of the Act. Her application stated that the landlord had failed to ensure that:

- the house is wind and watertight and in all other respects reasonably fit for human habitation
- the structure and exterior of the house (including drains, gutters and external pipes) are in a reasonable state of repair and in 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 in a reasonable state of repair and in proper working order
- any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order
- any furnishings provided by the landlord under the tenancy are capable of being used safely for the purpose for which they are designed
- the house meets the tolerable standard, in the following respects:
  - it has an interlinked system of fire and smoke alarms and adequate carbon monoxide alarms
  - it is substantially free from rising or penetrating damp
  - it is structurally stable

3. The tenant included the following complaints in her application form:

1. External water leakage issue causing significant dampness and mould in the property.
2. Broken wardrobe doors and missing coverings in the main bedroom have rendered the storage area unsafe and unusable.
3. Missing and broken kitchen cabinet doors and shelves reduce the functionality of essential kitchen spaces.
4. Unfixed floor panels in the living room create tripping hazards.
5. The boiler and radiator system have not been adequately repaired or maintained, leaving the property inadequately heated.
6. The extractor fan in the kitchen is faulty, and the grease filter frequently falls out.
7. The bathroom drain has remained blocked, causing stagnant water.
8. The washing machine door lock has not been repaired.
9. The smoke detector in the kitchen is non-functional and has not been replaced.

4. In her application, the tenant also raised various other issues. These included issues relating to the previous tenants' belongings still being present in the property when she moved in, the alleged failure to clean the property properly before the start of the tenancy, and the allegation that repairs had been carried out by an unregistered handyman without prior notice.

5. In the covering email of 23 January 2025 received with her application, the tenant asked the tribunal, in addition to investigating the landlord's failure to meet the repairing standard, to: 1) assess the appropriateness of the landlord's actions regarding the tenancy agreement and 2) consider granting compensation for the distress and inconvenience caused by the landlord's repeated failures
6. The tenant also included with her application numerous emails notifying the landlord of repairs which were alleged to be required. It appeared from the correspondence that some of these matters had been addressed, as they were not specifically included in the application.
7. On 14 February 2025, 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 9 July 2025.
8. The parties were invited to submit written representations no later than 24 June 2025. Written representations were received from the tenant on 7 June 2025.
9. On 9 June 2025, the tribunal administration wrote to the tenant, advising that the tribunal could only deal with the repairing standard issues which she had raised. It could only consider whether the property met the repairing standard as at the date of its inspection and hearing. The tribunal was unable to consider the other issues which she had raised in her application covering email. It was also unable to consider any claim for compensation in respect of the following, as requested in her written representations:
  - The prolonged period during which the property was alleged to have remained in a substandard and non-compliant condition
  - The distress, inconvenience, and discomfort suffered due to the alleged repairs issues
  - The alleged unlawful delay in registering her tenancy deposit beyond the legal timeframe
  - Unscheduled and unprofessional visits by unqualified tradespersons which were alleged to raise safety and privacy concerns
10. The tenant was advised that it was open to her to make separate applications to the tribunal regarding these matters.
11. The tribunal issued a direction to the landlord on 9 June 2025, directing her to provide by 2 July 2025 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 central heating system, within the house, had been checked and were working safely.

12. A response to the direction was received from the landlord on 11 June 2025.
13. Written representations were received from the landlord on 23 June 2025.

### **The inspection**

14. The tribunal inspected the house on the morning of 9 July 2025. The weather conditions at the time of the tribunal's inspection were warm, sunny and dry. The tenant was present and allowed the tribunal access for the inspection. The landlord was also present, and was accompanied by her son, Mr Akib Aman.
15. Photographs were taken during the inspection. These are attached as a schedule to this decision.
16. The tribunal asked the tenant to confirm which repairs issues were still outstanding as at the date of its inspection. The tribunal then inspected these outstanding issues only, where it was satisfied that they had been notified to the landlord as at the time of the tenant's application.

### **The house**

17. The house is a ground floor flat within a three-storey former local authority block which is in the region of 60-70 years old. The house comprises three bedrooms, living room, kitchen, bathroom and hallway.

### **The hearing**

18. Following the inspection, the tribunal held a hearing at George House, 126 George Street, Edinburgh EH2 4HH.
19. The tenant was present at the hearing and represented herself. The landlord was also present at the hearing and represented herself. She was accompanied by her son, Mr Akib Aman, as a supporter.

### **The evidence**

20. The evidence before the tribunal consisted of:
  - The application form submitted by the tenant, together with list of outstanding repairs issues.
  - Copy email correspondence, letters and WhatsApp messages between the parties regarding the repairs alleged to be required, dated between 2 November 2024 and 12 January 2025.
  - Photographs of the property submitted with the tenant's application.

- Copy WhatsApp correspondence between the tenant and the previous tenant of the property dated between 23 October and 11 November 2024.
- Registers Direct copy of Land Register title MID249635.
- Scottish Landlord Register registration details for the house.
- Tenancy agreement between the landlord and the tenant and Radhakrishnan Marisamy in respect of the house which commenced on 1 November 2024.
- Written representations received from the tenant on 7 June 2025.
- Written representations received from the landlord on 23 June 2025.
- Mould inspection report by Envirovent dated 18 February 2025.
- Gas safety certificate dated 20 November 2024 produced by Edinboilers Ltd in respect of the house.
- Letter from Edinboilers Ltd to the landlord dated 19 June 2025.
- Electrical Installation Condition Report dated 8 May 2024 and PAT test certificate dated 14 February 2024 in respect of the house produced by Hi-Lite Electrical Services.
- The tribunal's inspection of the house.
- The oral representations of the parties at the hearing.

### **Summary of the issues**

21. 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**

22. The house is owned by the landlord.
23. The landlord is the registered landlord for the house.
24. The landlord became the owner of the house on 23 August 2024. She had briefly let the house to a previous tenant before the tenant moved into it.
25. There is a private residential tenancy agreement in place between the landlord and the tenant and Radhakrishnan Marisamy, which commenced on 1 November 2024.
26. No inventory or record of condition was provided as part of the tenancy agreement
27. The tenant notified the landlord of the required repairs between 2 November 2024 and 12 January 2025.

28. The gas safety certificate in respect of the house dated 20 November 2024 was carried out by a registered Gas Safe engineer. It stated that the gas installation (namely the boiler and the cooker) were satisfactory. No defects were identified.
29. At its inspection, the tribunal carefully checked the items which were the subject of the complaint. The tribunal observed the following:
- a) The door of the kitchen cupboard next to the cooker was missing.
  - b) The rear panel of the same kitchen cupboard was damaged
  - c) The base trim/plinth underneath the cupboard was also missing
  - d) The shelves in the adjacent kitchen cupboard were missing.
  - e) The cooker hood was not operating correctly. The lights were defective, and the filter was loose and appeared to be damaged.
  - f) The heat detector in the kitchen was not operational and was not interconnected to the smoke alarms in the living room and hallway.
  - g) When the bath taps were turned on, the water was observed to be slow to drain away.
  - h) One of the mirrored doors was missing from the fitted wardrobe in the main bedroom.
  - i) Dampness readings were taken inside the wardrobe in the main bedroom. No signs of dampness was observed, and the area was found to be dry.
  - j) The cupboard in the main bedroom which had formerly housed the hot water storage tank was unpainted and the plaster work was poor.
  - k) Dampness readings were taken in the storage area entered from the living room. No signs of dampness were indicated, and the area was found to be dry.
  - l) There was damp staining on the gable wall of the second bedroom. High dampness readings were obtained.
  - m) Constant running water was observed externally, coming from the overflow pipe of the second floor flat above the house.
  - n) The interior of the former coal cupboard in the close outside the house was unpainted.
  - o) There were two brown garden waste bins in the back garden of the house which were full of waste. One of the bins was broken.

### **Reasons for decision**

30. 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.

31. The tribunal did not consider the following complaints which were included in the tenant's application, because the tenant had confirmed that they had now been resolved:

- Unfixed floor panels in the living room.
- The washing machine door lock has not been repaired.

32. The tenant raised three issues with the tribunal at the inspection which were not clearly stated in her application. These were:

- The outside storage room needs to be painted.
- There are two garden waste bins full of mud and stones in the garden left by the previous tenant, which require to be disposed of.
- The garden is unmaintained, and no tools have been provided to manage the garden.

33. The tribunal decided to consider the first two issues, as these had been notified to the landlord prior to making the application. The garden issues had not, however, been raised by the tenant prior to including them in her written representations of 7 June 2025. The tribunal did not therefore consider these further, although it observes that maintenance of the garden is the tenant's responsibility under the tenancy agreement. In the absence of an inventory, it was also unclear as to whether any garden tools were to be provided by the landlord.

34. The tribunal considered each of the tenant's outstanding complaints in turn, as set out below.

#### **1. Significant dampness and mould.**

35. The tenant had complained in her application of dampness and mould in several areas within the house. Firstly, she complained about dampness within the fitted wardrobe in the main bedroom. At the tribunal's inspection, dampness readings were taken inside the wardrobe. No signs of dampness was observed, and the area was found to be dry.

36. The tenant had also complained of dampness and pooling water in the storage area which is entered from the living room. During the tribunal's inspection, no signs of dampness were indicated, and the area was found to be dry.

37. The tenant told the tribunal at the hearing that during the winter, there had been mould within the wardrobe and water had been pooling on the shelves.

There had also been a lot of water gathering in the storage area off the living room, which she had to mop up regularly.

38. The landlord said that she had instructed a specialist dampness report. This had found that the issue was condensation, rather than dampness, and it recommended improved ventilation. She said that the mould could be cleaned off, and that the previous tenant had not complained about dampness or mould.
39. The tenant pointed out that the previous tenant had only lived in the property for a couple of months and had not been there during the winter. She said that she opened the windows for a couple of hours every day, but that in the winter she had been unable to open them for longer than this. It had been too cold to do so, and the heating had been inadequate.
40. At its inspection, the tribunal observed that there was damp staining on the gable wall of the second bedroom. High dampness readings were obtained. The tribunal also observed that a constant flow of water was running from the overflow pipe of the second floor flat above the house, and down the outside gable wall where the second bedroom is located.
41. The landlord told the tribunal at the hearing that she had been unaware of this leak. The tenant said that the landlord's joiner had pointed this out to her in January 2025, and that she had emailed the landlord about this previously.
42. It was clear to the tribunal, using its special expertise, that this leak from the second floor flat, probably from the water tank, was the cause of the dampness on the gable wall of the second bedroom. The cause was not condensation, as the landlord had suggested. The tribunal noted that the leak was not referred to in the report from the specialist damp surveyor which the landlord had instructed.
43. In the opinion of the ordinary (surveyor) member of the tribunal, the leak down the gable wall may also have contributed to the dampness and mould complained of elsewhere in the house. The areas indicated by the tenant were found to be dry at the time of the inspection, when the weather had been dry for some weeks. The tribunal also noted that, as discussed later in this decision, the tenant had had difficulty in controlling the heating when she first moved into the property. This may also have been a contributory factor.
44. The tribunal determined that at the time of its inspection, the house was not wind and watertight and in a reasonable state of repair and in working order.



## **2. Broken wardrobe doors and missing coverings in the main bedroom**

45. The tribunal observed during its inspection that one of the mirrored doors was missing from the fitted wardrobe in the main bedroom.
46. The tenant told the tribunal that the wardrobe had three mirrored doors when she moved in. She had reported to the landlord that one of the doors was not sliding properly on the day that she moved into the house. When the landlord had tried to fix the door, the wheels had come off. The landlord has sent a tradesman to fix it, but he had been unable to find a replacement wheel. The tradesman had come to the property while the tenant was out and when she came back, the glass had fallen out. The tradesman told her that the best solution was to remove the door, as the glass was too heavy to be supported by the wheel. The broken door was in the garden for safety reasons, as the glass was broken.
47. The landlord agreed that she had tried to fix the wardrobe door twice. She had been advised that the door had to be removed, as the replacement mirrored door had been discontinued. She had been told that she would have to remove the wardrobe and replace it with a new one because the standard doors now available are a different size.
48. The tribunal determines that the wardrobe doors are not in a reasonable state of repair and in proper working order.
49. It became apparent at the inspection that the “missing coverings” referred to by the tenant in her application related to what she referred to as a “storage cupboard” within the main bedroom. This was the cupboard which had formerly housed the hot water storage tank. The tribunal observed at its inspection that this cupboard was unpainted and the plaster work was poor.
50. The tenant’s complaint about the cupboard was that, because it was unpainted and had poor plaster work, it was not in satisfactory condition to store things. She said that the landlord had told her when she came to view the property that this was a storage cupboard and would be painted before she moved in. The landlord told the tribunal that this was not a storage cupboard and that she had never told the tenant that it was.
51. The tribunal took the view that, whether the tenant had been told this or not, this was a cosmetic issue and was not therefore a breach of the repairing standard.

### **3. Missing and broken kitchen cabinet doors and shelves**

52. The tribunal observed the following during its inspection:

- The door of the kitchen cupboard next to the cooker was missing.
- The rear panel of the same kitchen cupboard was damaged.
- The base trim/plinth underneath the cupboard was also missing.
- The shelves in the adjacent kitchen cupboard were missing.

53. The landlord told the tribunal that she had sent a joiner out three times to fix the cupboards. The tenant had said they were fixed and then said they were broken again.

54. The tenant said that the joiner had attempted to fix the base trim several times, but that he had been unable to do so, and had used a plastic sheet to cover the space. He had brought a piece of wood to the house in April to try to fix the shelving, but it was the wrong size. She was still waiting for him to bring a new shelf.

55. The tenant said that the joiner had nailed a piece of wood where the cupboard door should be. This had meant she was unable to use it for storage. She had therefore asked him to remove the wood, so that she could use the cupboard until he found a suitable door. She was still waiting for him to bring this. The landlord said that she accepted the joiner had not replaced the cupboard door.

56. The tribunal determined that at the time of its inspection the cupboard door, shelving, base trim and rear panel mentioned above were not in a reasonable state of repair and in proper working order.

### **4. The boiler and radiator system have not been adequately repaired or maintained.**

57. The tenant had indicated in her written representations that this matter remained partly outstanding. She confirmed to the tribunal at the inspection and hearing that she believed the central heating and the boiler were working at the time of the inspection, although she was not using the heating at present given the weather. She said that until February, she had to use electric heaters. She confirmed that she had been unable to use the heating control thermostat until the gas engineer had told her how to do this.

58. The landlord said that the tenant had not known how to control the boiler when she first moved in. This was consistent with the letter of 19 June 2025 which she had produced from the registered gas engineer who carried out

the gas safety inspection on 20 November 2024. This letter stated that the gas engineer had to demonstrate to the tenant how to operate the heating control thermostat.

- 59. The gas safety certificate in respect of the house of that date stated that the gas installation (namely the boiler and the cooker) were satisfactory. No defects were identified.
- 60. The tribunal therefore determined that on the balance of probabilities, the boiler and central heating system were in a reasonable state of repair and in proper working order as at the date of its inspection.

**5. The extractor fan in the kitchen is faulty, and the grease filter frequently falls out.**

- 61. It became apparent at the inspection that the tenant's reference to "the extractor fan in the kitchen", related to the cooker hood. The tribunal observed during its inspection that the cooker hood was not operating correctly. The lights were defective, and the filter was loose and appeared to be damaged.
- 62. The landlord said that she had believed her joiner had fixed the hood. The tenant said that it was not working, and the filter fell out regularly, often behind the cooker.
- 63. The tribunal determined that as at the date of its inspection, the cooker hood was not in a reasonable state of repair and in proper working order.

**6. The bathroom drain has remained blocked, causing stagnant water.**

- 64. The tribunal observed during its inspection that when the bath taps were turned on, the water was slow to drain away.
- 65. The tenant told the tribunal that she had reported the issues with the plumbing in the bathroom when she had first moved in. Sometimes when water was being used in the bathroom sink, water came up through the drain in the bathtub. The water did not drain away, and she had to use drain cleaner regularly. She had engaged a plumber who had fixed it temporarily. Both she and the landlord had plunged the drain, but the problem kept returning.
- 66. The tribunal determined that as at the date of its inspection, the bathroom drainage system was not in a reasonable state of repair and in proper working order.

## **7. The smoke detector in the kitchen is non-functional.**

67. The landlord told the tribunal at the hearing that the heat detector was working, but that the battery required to be replaced.
68. At its inspection, the tribunal noted that the heat detector in the kitchen was not operational and was not interconnected to the smoke alarms in the living room and hallway.
69. This does not meet the current requirements set out in [Scottish Government guidance on fire detection in private rented properties](#). The tribunal is required to have regard to this guidance in determining whether the house meets the repairing standard.
70. The guidance states that in order to comply with the repairing standard there should be at least:
- one functioning smoke alarm in the room which is frequently used by the occupants for general daytime living purposes (normally the living room/lounge),
  - one functioning smoke alarm in every circulation space on each storey, such as hallways and landings, or in main room if no landing in upper storey
  - one heat alarm in every kitchen,
  - all alarms should be ceiling mounted, and
  - all alarms should be interlinked.
71. The tribunal therefore determines that the house does not meet the repairing standard, as the heat alarm is not interlinked with the smoke alarms.

## **8. The outside storage room needs to be painted**

72. The tribunal observed during its inspection that the interior of the old coal cupboard in the close outside the flat was unpainted. The tenant confirmed that this was the “outside storage room” which she was referring to. She complained that the walls were unlined and unpainted and that it was therefore not capable of being used as a storage cupboard.
73. The landlord told the tribunal that she accepted that the walls of the cupboard were unlined and unpainted- and that there were nails protruding from the inside walls- but said that the cupboard was not intended to be used for storing things.

74. The tribunal took the view that this was a cosmetic issue and was not therefore a breach of the repairing standard.

**9. There are two garden waste bins full of mud and stones which require to be disposed of**

75. The tenant told the tribunal that the two brown garden waste bins in the back garden, one of which was broken, had been there since she moved into the house, and that they were jammed full of mud and stones, and were so heavy they could not easily be moved. She had kept asking the landlord to remove them, but she had not done this.

76. The landlord said that there had only been one garden waste bin outside when she bought the property, and that the other one was not hers. She agreed that one of the bins was broken. It was possible to order a replacement garden waste bin from the council, but she had not done so.

77. The tribunal noted that there was no inventory attached to the tenancy agreement. The tenancy agreement provides, however, that the tenant is responsible for maintaining the garden. It also provides that the tenant agrees to dispose of all rubbish in an appropriate manner, and in the appropriate container. It might reasonably be expected, therefore, that a garden waste bin would be provided by the landlord. The tribunal therefore considers that one empty and usable garden waste bin should have been provided by the landlord to the tenant at the start of the tenancy. This had not happened, however.

78. The tribunal determines that, as at the date of its inspection, the garden waste bins provided were not in a reasonable state of repair and in proper working order.

**Summary of decision**

79. On the basis of all the evidence before it, the tribunal determined that the landlord had failed to comply with the duty imposed by section 14(1) (b) of the Act, and in particular that the landlord has failed to ensure that the house meets the repairing standard in that:

- the house is not wind and watertight and in all other respects reasonably fit for human habitation.
- the installations in the house for the supply of water are not in a reasonable state of repair and in proper working order.

- the fixtures, fittings and appliances provided by the landlord under the tenancy are not in a reasonable state of repair and in proper working order.
- the house does not meet the tolerable standard, as it does not have an interlinked system of fire and smoke alarms and adequate carbon monoxide alarms.

80. The tribunal therefore makes a Repairing Standard Enforcement Order (RSEO) as required by section 24 (2) of the Act.

### **Rights of Appeal**

81. 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.
82. 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.

Signed.....S.O'Neill.....Date:....28 July 2025  
 Sarah O'Neill, Chairperson

# Housing and Property Chamber

## First-tier Tribunal for Scotland



### Pre-hearing inspection summary and schedule of photographs



**Property:** FLAT 2, 46 ARDSHIEL AVENUE, EDINBURGH EH4 7HS

**Ref No:** FTS/HPC/RP/25/0284

**Tribunal members:** Ms S O'Neill & Mr D Godfrey

#### **Purpose of inspection**

The purpose of the inspection is to prepare a photographic record of the condition of the property, specifically as it relates to the items raised in the application and subsequent correspondence and any issues arising there from.

#### **Access**

The above Tribunal Members attended the property at 10:00 on 09 July 2025.

The Tenant, Mrs Kirubhasini Devarajan was present and provided access to the property

The Landlord, Mrs Khaleda Aman was present and was accompanied by her son Mr Akib Aman.

David Godfrey MRICS  
Ordinary (Surveyor) Member  
First-tier Tribunal for Scotland  
09/07/2025



## Appendix 1

Schedule of photographs taken during the inspection on 09/07/2025.



Kitchen cupboard showing missing door, missing base trim and damaged rear panel.



Kitchen cupboard showing missing shelves.





Cooker hood showing defective lights and loose/damaged filter.



Defective heat detector in Kitchen.



Choked drain from bath in Bathroom.



Missing wardrobe door in main Bedroom.





Former hot water storage tank cupboard in main Bedroom.



Damp staining on gable wall of second Bedroom.



Storage area entered from Living Room.



Water running from overflow pipe of second floor flat above subject property.