



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 24 of the Housing (Scotland) Act 2006

Chamber Ref: FTS/HPC/RP/24/4299

Re: 8 Whinknowe, Ashgill, Larkhall, ML9 3AP (“the Property”)

Parties:

Mr Malcolm Hobday, Mr Jonathan Wagstaff (“the Applicants”)

Mr Douglas Steen and executor(s) of Mr Bruce Scobbie (“the Respondents”)

Tribunal Members:

Andrew Upton (Legal Member) and Kingsley Bruce (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Respondent has failed to comply with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006, and made a Repairing Standard Enforcement Order.

Statement of Reasons

1. This Application called for a Hearing on 5 June 2025. The Tribunal undertook an inspection of the Property at 10.00am, in the presence of the first named Applicant, Mr Hobday. The Respondent was not present at the inspection. At the inspection, a number of photographs of items of interest were taken by the Ordinary Member, Mr Bruce. A schedule of those photographs is appended to this Decision.
2. Following the inspection, the Hearing called at Brandon Gate, Hamilton, at 11.45am. The Applicants were not present or represented at the Hearing. Mr Hobday had advised the Tribunal during the inspection that he was unable to attend due to his health. The Respondent was not present or represented at the Hearing.

3. In this Application, the Applicants seeks a Repairing Standards Enforcement Order. In the Application, they claim that the Respondent has failed to meet the Landlord's duty to keep the Property compliant with the Repairing Standard in section 14 of the Housing (Scotland) Act 2006. In particular, they assert that:-
 - a. The house is not wind and watertight and in all other respects fit for human habitation;
 - b. The structure and exterior of the house (including drains, gutters and external pipes) are not in a reasonable state of repair and in proper working order;
 - c. Fixtures, fittings and appliances provided by the landlord under the tenancy are not in a reasonable state of repair and in proper working order;
 - d. The house does not meet the tolerable standard, and in particular:-
 - i. Does not comply with the relevant requirements in relation to the electrical installations for the purposes of that supply;
 - ii. Does not have satisfactory facilities for the cooking of food within the house; or
 - iii. Is not structurally stable;
 - e. Common parts pertaining to the house can not be safely accessed or used; and
 - f. The house being a tenement, common doors are not secure and fitted with satisfactory emergency exit locks.

4. The Applicants set out in the Application nineteen specific wants of repair which they found upon as a basis for this Application. In the period since the raising of the Application, the Respondent has arranged for the completion of works at the Property to address many of those items. Indeed, the parties confirmed to the Tribunal by email correspondence prior to the Hearing that additional works had been arranged for 10 June 2025. For the purposes of the Application, the Applicants have restricted their Application to the following matters:-
 - a. There is a crack or stone chip in the window of the front bedroom;
 - b. The window in the kitchen, and its surrounding structure, is in disrepair;
 - c. The external door to the kitchen is not in proper working order, and is not wind and watertight;
 - d. The mechanical extractor fan in the bathroom is not in proper working order;
 - e. The window in the bathroom is not in proper working order; and
 - f. The gutters at the Property are defective.

Front Bedroom Window

5. The front bedroom on the first floor of the Property has a sealed unit double-glazed pane. The external glazing has suffered significant impact damage, resulting in a hole, cracking and a piece of glass, approximately the size of a penny, becoming dislodged and sitting in the air gap between the panes.

6. The window is part of the structure of the Property. Whilst the damage caused is not sufficient to cause that area of the Property to fail to be wind or watertight, the damage is likely to affect the thermal performance of the unit. In any event, it cannot be said that a window displaying such damage is in a reasonable state of repair, having regard to the age, character and prospective life of the house, and the locality in which it is located. Accordingly, the Tribunal is satisfied that the failure to replace the glazing is a failure by the landlord to comply with the repairing standard.
7. The Tribunal will require that the Respondent undertakes work to replace the damaged glazing within 8 weeks.

The Kitchen Window

8. The window in the kitchen is a double-glazed unit. It is opened by using a handle, which is mechanically connected to a latch. The Tribunal observed that the rubber seal between the window and its frame has lost its pliability and is damaged. It is no longer sufficient to make the window wind and watertight.
9. Separately, the external timber facing surrounding the window is decayed and is also not wind or watertight.
10. The condition of the window and its surrounding fixings is such that the house is not wind and watertight in that location. Separately, the window and its surrounding fixings form part of the structure of the house, and are not in a reasonable state of repair, having regard to the age, character and prospective life of the house, and the locality in which it is located. Accordingly, the Tribunal is satisfied that the failure to repair/undertake repairs to the kitchen window is a failure by the landlord to comply with the repairing standard.
11. The Tribunal will require that the Respondent undertakes work to replace the defective window unit, and to replace the decayed external areas surrounding the window, all within 8 weeks.

The Kitchen Door

12. The door in the kitchen leads to the rear garden. It is of uPVC construction.
13. The first complaint pertaining to the kitchen door was that it did not close properly. During the inspection, the Tribunal noted that the door, when pushed shut, would not latch. That was due to the apparent absence of a tongue on the edge of the door. However, if the door is closed and the handle lifted up to engage the locking points and latch, the door will remain closed and secure. Accordingly, the Tribunal was satisfied that the door was in proper working order.
14. The second complaint was that the door was not wind and watertight. The Applicants contended that draughts were felt coming from both sides of the

door frame. At the inspection, the Tribunal was unable to locate any draughts. The door fixings are properly sealed.

15. It follows that, for the reasons referred to by the Applicants, the condition of the door is not a breach of the landlord's repairing standard.
16. However, the Tribunal observed that the external face of the door had suffered significant impact damage. One of the uPVC panels had been pierced and shattered, exposing the interior insulation. Had that complaint been raised by the Applicant in the Application, it is likely that the Tribunal would have held that to be a breach of the landlord's repairing standard. We were told that the Respondent's agent had arranged for the door to be replaced as part of the works on 10 June 2025, so that issue will hopefully be resolved without the need for further proceedings.

The Bathroom Fan

17. The bathroom is fitted with a mechanical extractor fan. It is a new fan, which replaced a previous fan that had broken. The previous fan was connected to the bathroom light fitting, such that both came on when the switch was depressed. Since the new fan was fitted, it has not worked. The Applicants asserted that the person who fitted the fan said that he did not know how to connect it.
18. The bathroom fan is a fixture, fitting or appliance provided by the Respondent. It is not in working order. Accordingly, the failure to put the bathroom fan into working order is a failure by the Respondent to comply with the repairing standard.
19. The Tribunal will require that the Respondent arranges for the bathroom fan to be put into proper working order by a qualified electrician. The Tribunal will also require that the Respondent produces an Electrical Installation Condition Report ("EICR"). Those works must be completed within 8 weeks.
20. The Tribunal observes that the Applicants previously raised complaints concerning the electrical installations at the Property. Whilst those complaints are no longer insisted upon, the Tribunal expects that the EICR will address all electrical installations in the Property, and whether the other works undertaken by the Respondent have been properly attended to.

The Bathroom Window

21. The window in the bathroom is uPVC framed type. It is opened by lifting the handle, which turns the latch. However, the mechanism within the window is not engaging with the handle. The window therefore never closes properly. The window also does not open fully. The rubber seal in the window is dried out and brittle.
22. The window is part of the structure of the Property. It is not in a reasonable state of repair, having regard to the age, character and prospective life of the

house, and its locality. In the circumstances, the failure to repair the window is a failure by the Respondent to comply with the repairing standard.

23. The Tribunal will require that the Respondent undertakes work to replace the window within 8 weeks.

Gutters

24. The Tribunal was directed to the gutters at the rear elevation of the Property. The Property is a mid-terrace dwellinghouse. The houses on both sides have had their gutters replaced in recent years.
25. The Tribunal observed that the gutters did not appear to be graded correctly to ensure sufficient discharge to the downpipe connected. The fascia beneath the gutters is also showing signs of water damage and decay.
26. The gutters form part of the structure of the Property. They are not in reasonable state of repair. Accordingly, the failure of the Respondent to repair the gutters is a failure to comply with the repairing standard.
27. The Tribunal will require that the Respondent undertakes work to undertake such works as may be required to the gutters to ensure that surface water is collected and discharged to a downpipe leading to the public sewer. Thereafter, the Respondent is required to test the gutters for any escape of water and to repair any leaks evident from that test. The Tribunal will require that the Respondent attend to those repairs within 8 weeks.

Observations

28. Whilst not part of this Application, the Tribunal noted certain matters during its inspection that it wishes to bring to the attention of the Respondent. Firstly, all of the windows at the Property that the Tribunal saw were showing signs of degradation. In particular, the rubber seals were perishing. It is recommended that the Respondent inspect all of the windows at the Property with a view to undertaking necessary repairs before they become a repairing standards issue.
29. The Tribunal also noted that there appeared to be a damaged door and other debris lying on the roof of the front porch. The door and debris are showing signs of water absorption and decay. It is recommended that the Respondent take steps to remove the debris before it becomes a source of further damage.

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.

Andrew Upton

30 June 2025

Legal Member/Chair

Date

Schedule of photographs

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8 Whinknowe, Ashgill, Larkhall, ML9 3AP

5 June 2025

Street elevation



Bathroom Window



Front Bedroom Window



External door-kitchen



Damage to exterior face

Kitchen Window



Bathroom Extract fan



Rear Gutters

