

Housing and Property Chamber

First-tier Tribunal for Scotland



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

**STATEMENT OF DECISION OF THE TRIBUNAL
UNDER SECTION 24(1)
OF THE HOUSING (SCOTLAND) ACT 2006**

In connection with

65 Union Street, Cowdenbeath KY4 9SA ("the House")

The Parties:

Colin Wagstaff, formerly of 65 Union Street, Cowdenbeath, Fife KY4 9SA ("the Tenant")

Peter Robertson, 54 Foulford Road, Cowdenbeath, Fife KY4 9AS ("the Landlord")

Reference number: FTS/HPC/RP/24/4289

DECISION

The Tribunal, having made such enquiries as are fit for the purposes of determining whether the Landlord has complied with the duty imposed by section 14(1)(b) of the Housing (Scotland) Act 2006 (hereinafter "the Act") in relation to the House, and taking account of the evidence led at the inspection and hearing and of the written documentation attached to the application, determined that the Landlord had failed to comply with the duty imposed by section 14(1)(b) of the Act.

Background

By application dated 13 September 2024 (hereinafter referred to as "the Application"), the Tenant applied to the Tribunal for a determination of whether the Landlord had failed to comply with the duties imposed by section 14(1)(b) of the Act.

The Application stated that the Tenant considered that the Landlord had failed to comply with the duty to ensure that the House meets the repairing standard and, in particular, that the Landlord had failed to ensure compliance with the following paragraphs of section 13(1) of the Act:

"(a) the house is wind and water tight and in all other respects reasonably fit for human habitation

(b) 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,

(c) the installations in the house for the supply of water, gas, electricity (including residual current 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...

(h) the house meets the tolerable standard."

The Tenant complained about the absence of adequate fire detection measures; choked gutters; missing wall tiles in the bathroom; the bath sink being insufficiently water tight; the stop cock not working; the cooker grill not working; and insecure handles on kitchen units. The Tenant also complained of the absence of a Landlords Gas Safety Certificate; an Electrical Installation Condition Report ("EICR") and any evidence of a risk assessment in relation to the presence of legionella.

On 1 April 2025, the Tribunal was informed that the Applicant had ceased to be the tenant of the House.

By letter of 24 April 2015, the President of the Tribunal intimated a decision to continue with the application and to refer the application under section 23(1) of the Act for determination.

The Tribunal comprised the following members:

John McHugh, Chairperson
Greig Adams, Ordinary (Surveyor) Member.

The Tribunal served Notice of Referral in terms of Paragraph 1 of Schedule 2 to the Act upon the Landlord and the Third Party.

A hearing and inspection were fixed for 23 May 2025.

The Tribunal inspected the House on 23 May 2025. The property was unoccupied. The Landlord was not present. His colleague, Lisa Murphy provided access.

Following the inspection, the Tribunal held a hearing on the same day at the Vine Centre, Dunfermline. Neither party was present or represented. The Tenant was no longer entitled to appear by virtue of no longer being the tenant of the House. Ms Murphy had indicated that the Landlord would be unable to attend because of work commitments, The Tribunal considered the written evidence submitted by the Tenant. There were no written representations on behalf of the Landlord.

Submissions at the Hearing

None.

Summary of the Issues

The issue to be determined is whether the House meets the repairing standard as laid down in section 13 of the Act and whether the Landlord has complied with the duty imposed by section 14(1)(b).

Findings in Fact

The Tribunal confined its inspection to the items of complaint detailed within the Application.

The Tribunal made the following findings in fact:

- 1 The House is a purpose built four in a block ground floor flat.
- 2 The tenant occupied the House under a tenancy agreement dated 11 February 2019 until on or around 1 April 2025.
- 3 Peter Robertson is the registered owner of the House.
- 4 Peter Robertson is registered as Landlord of the House.
- 5 The provisions of Chapter 4 of Part I of the Act apply to the tenancy.
- 6 The Third Party notified the Landlord's representative of the defects in the House which are now the subject of the Application by letter issued on his behalf by Fife Council Protective Services Department dated 16 July 2024.
- 7 The inspection on 23 May 2025 revealed:
 - a. Vegetation is present in the front gutter.

- b. Extensive mould is present in the eastmost bedroom.
- c. Mould and dampness are apparent in the hall cupboard.
- d. Modern smoke alarms and a modern heat alarm are present in the hall, living room and the kitchen but may not be interlinked.
- e. Handles are missing from kitchen cupboards and drawers and loose on other cupboards.
- f. A number of tiles are missing from the bathroom wall.
- g. No Landlords Gas Safety Certificate, EICR or legionella risk assessment have been provided.

A schedule of photographs taken at the inspection has been provided to the parties.

Reasons for the Decision

The gutter at the front of the House contains vegetation preventing it from operating as intended.

There is evidence of significant mould in the eastmost bedroom. The cause is uncertain but may be as a result of cold bridging from an uninsulated floor. High surface humidities were recorded on the external walls coinciding with the mould contaminated areas, giving rise to conditions conducive to mould growth. Ambient temperature, relative humidity and vapour pressure excess did not reveal any anomalies, however, surface temperatures at low level to walls was considered to be relatively poor, giving concern over the thermal performance. Mould is also present in the hall cupboard and it is suspected that there may be dampness in that area given the recording of elevated moisture readings and damage to internal paint finishes suggestive of water movement.

The smoke/heat alarms did not activate each other when any single one of them was tested. They appear not to be interlinked.

Handles are missing from kitchen cupboards and drawers and loose on others.

A number of tiles are missing from the bathroom wall.

No Landlords Gas Safety Certificate, EICR or legionella risk assessment have been provided.

The Repairing Standard

The Tribunal considers that the following items represent breaches of the repairing standard: the gutter; the mould; dampness; fire detection measures; kitchen cupboard handles; the missing bathroom tiles and the absence of Landlords Gas Safety Certificate, EICR and legionella assessment. Accordingly, a Repairing Standard Enforcement Order should be made. Having regard to the nature of the works required at the House, the Tribunal have allowed 90 days for the repairs to be carried out.

The Tribunal was unable to ascertain whether the cooker grill was working as the power supply was turned off. The watertightness of the bath plug could not be tested as the water supply was turned off. Given that the water supply was off, it appeared to the Tribunal that the stopcock works as intended.

Observations

The Tribunal noted that the House was generally in need of maintenance and repair and observed that there is leak from the attic overflow, possibly from the neighbouring property and that the roof of a large shed in the rear garden has collapsed.

Decision

The Tribunal, considering the terms of section 13(3) of the Act, determined that the Landlord had failed to comply with the duty imposed by section 14(1)(b) of the Act.

The decision of the Tribunal was unanimous.

Right of Appeal

A landlord, tenant or third party applicant aggrieved by the decision of the tribunal may seek permission to appeal from the First-tier Tribunal on a point of law only within 30 days of the date the decision was sent to them.

Effect of Section 63 of the 2006 Act

Where such an appeal is made, the effect of the decision and of the order is suspended until the appeal is abandoned or finally determined, and where the appeal is abandoned or finally determined by confirming the decision, the decision and the order will be treated as having effect from the day on which the appeal is abandoned or so determined.

J M McHugh

John M McHugh
Chairperson

Date: 28 May 2025



**65 Union Street, Cowdenbeath KY4
9SA**

“the Property”/ “the House”)

Chamber Reference: FTS/HPC/RP/24/4289

SCHEDULE OF PHOTOGRAPHS



1 Visual vegetation evident to rainwater gutters at front roof pitch.



2 Visual mould growth evident at low levels to external walls within Eastmost Bedroom.



3 Visual mould growth evident at low levels to external walls within Eastmost Bedroom.



4 Visual mould growth evident at low levels to external walls within Eastmost Bedroom.



5 Condensation assessment within Eastmost Bedroom, surface temperatures were above dewpoint however, a high surface humidity was recorded.



6 Condensation assessment within Eastmost Bedroom, surface temperatures were above dewpoint however, a high surface humidity was recorded.



7 Psychrometric data within Eastmost Bedroom.



8 Quantitative moisture reading to timber within acceptable range.



9 View within Hallway Cupboard.



10 Heavy mould growth to external wall within Hall Cupboard.



11 Elevated qualitative moisture readings recorded within Hall Cupboard.



12 Blistering and deterioration of paint finish due to dampness.



13 Smoke detector.



14 Example of missing light fittings – electrics not turned on.



15 Smoke detector.



16 Heat detector.



17 Example of missing light fittings – electrics not turned on.



18 Gas fired boiler.



19 Carbon Monoxide detector.



20 Rear Bedroom – dampness at corner to low level.



21 Rear Bedroom – dampness at corner to low level.



22 Cooker.



23 Missing handles to drawers.



24 Missing handles to drawers.



25 Missing tiles at junction with bath and not sealed.



26 Missing tiles at junction with bath and not sealed.



27 Overflow at eaves saturating base of wall and fence over rear elevation.



28 Dilapidated outbuilding with roof damaged.



29 Front Elevation.

Surface Relative Humidity %

Change per °C decrease/increase

5.4°C -5°C	100.0%
6.4°C -4°C	100.0%
7.4°C -3°C	100.0%
8.4°C -2°C	100.0%
9.4°C -1°C	100.0%
11.4°C +1°C	88.4%
12.4°C +2°C	82.7%
13.4°C +3°C	77.5%
14.4°C +4°C	72.6%
15.4°C +5°C	68.1%

30 High Surface Humidity and High risk of mould growth.

Mould Risk to Surface

High Risk $\geq 90\%$

1