

**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 ("The Act")**

**Chamber Ref: FTS/HPC/RP/24/5853**

**Re: Property at 2a Gracemount Drive, Edinburgh, "the Property") being the subjects registered in the Land Register of Scotland under Title Number MID70143**

**Parties**

**Ms Judith Toth, and Michelle Cooper, residing at 2a Gracemount Drive, Edinburgh ("the Tenants")**

**Christopher Ryan Townsley, 24 Hawthorn Avenue, Erskine, United Kingdom, PA8 7BU ("the Landlord")**

**Tribunal Members:**

**Andrew McLaughlin (Legal Member) and Mr Andrew Murray (Ordinary Member)**

**Decision**

**[1] The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") having made such enquiries as it saw fit for the purposes of determining whether the Landlord had complied with the duty imposed by Section 14 (1) (b) of the Housing (Scotland) Act 2006 ("the Act") in relation to the Property, determined that the Landlord has failed to comply with the duty imposed by Section 14 (1) (b) of the Act, and has determined to make a Repairing Standard Enforcement Order ("RSEO").**

**Background**

[2] By Application dated 23 December 2024, the Applicants seek a determination that the Landlord has failed to comply with their duty under Section 14 (1)(b) of the Act in that the Property does not meet the Repairing Standard in respect of the following paragraphs of Section 13 (1) of the Act:

*13 (1) (a) The house is wind and watertight and in all other respects reasonably fit for human habitation.*

*13 (1) (i) Any common parts pertaining to the house can be safely accessed and used*

*13 (1) (j) The house has satisfactory provision for and for and safe access to a food storage area and a food preparation space*

[3] In the Application, the tenants narrated the following 3 principal areas of concern:

- 1. Repair of the subfloor throughout the flat and especially in the kitchen and bathroom, and installation of appropriate flooring (linoleum) for the type of floor*
- 2. Replacement of front door which has fungal ingress and which is not well fitted and allows wind and pests access*
- 3. Investigation and repair of the area behind the bathtub where wind has been able to come into the flat*

[4] The Application was submitted with copies of extensive email correspondence between the parties regarding the issues raised, extensive photographs and representations setting out background information. Hundreds of pages of content had been submitted by the Applicants in a somewhat unstructured manner. The tenancy agreement itself was not contained within these voluminous papers but was then supplied by the Applicants in a further submission dated 16 January 2025.

[5] The Tribunal intimated to all parties that they would inspect the property on 17 June 2025 at 10am and that a Hearing would then be held at George House, George Street, Edinburgh at 12 noon on the same date.

### **The Inspection**

[6] The Tribunal Members, in the company of the Tenants, conducted an inspection of the Property at 10am on 17 June 2025. Ms Katie Fitton was also present as the agent instructed by the landlord to manage the property albeit she explained that she had no specific instructions yet in respect of this Application. The property is a large first floor flat above a Tesco Express mini-supermarket. The Tribunal took photographs which are produced in the schedule attached to this decision.

[7] The Tribunal observed that, in numerous locations, the floor timbers supporting the finishes (carpet and ceramic tiling) had failed under compression, resulting in “dips” in the flooring causing trip hazards. In the kitchen, the ceramic tiled floor finish is crazed and cracked throughout, and has been repaired in an ad-hoc fashion by the application of a bituminous based tape. The Applicants expressed concern about the structural stability of the floors, in the locations where the timbers have deflected. The Tenants reported that they had previously fallen through the floor itself and that subsequent remedial works had been insufficient to remedy the defects.

[8] The Tribunal observed that the front door into the Property has been poorly maintained. There were fresh air gaps between the door and the surrounding frame and

the threshold strip and external door facings were not properly fixed to the substrate. The Tribunal concluded that the door was unlikely to be wind and watertight during inclement weather.

[9] The Tribunal also inspected the repair issue in the bathroom raised by the tenants (wind ingress from under the bath). The Tribunal noted that there was no evidence that this issue was still ongoing and would appear to have been rectified by the landlord's remedial actions (mastic sealant around the bath panels).

[10] The Tenants were invited to direct the Tribunal's attention to any other part of the Property relevant to the Application. Ms Fitten likewise confirmed that she had received a sufficient opportunity to inspect the alleged defects in the Property and did not wish to draw the Tribunal's attention to any other area of the Property. After all parties confirmed that they were content that the Tribunal had been directed to all relevant areas of the Property, the Tribunal then concluded the inspection and adjourned the Application to a Hearing which then took place at 12 noon in George House, George Street, Edinburgh.

### **The Hearing**

[11] The Tenants, Ms Fitten and the Tribunal Members then duly convened at the appointed time for the Hearing. Neither party had any preliminary matters to raise and both were content that the Tribunal get started. The Tribunal noted that the alleged breaches of 13 (1) (i) and 13 (1) (j) appeared irrelevant. The Applicants agreed that reference to these breaches of the repairing standard did not make much sense and that their issues were more accurately relevant to an alleged breaches of 13 (1) (a).

[12] Ms Fitten accepted that the Tenants concerns regarding the flooring and the front door were legitimate and confirmed that the Respondent was aware that renovations would be required at the Property.

### **Findings in Fact**

- 1) *The parties entered into a tenancy agreement in terms of which the Landlord let the Property to the Tenants by virtue of a Private Residential Tenancy Agreement which commenced on 11 February 2022.*
- 2) *The Property is not wind and water tight as the front door has gaps that allow air and water to enter the Property between the door and the frame.*
- 3) *The floor timbers, in locations throughout the property, are unstable and compress and move when stood on. The Applicants are anxious about the floor collapsing whenever they step on it. There are loose, cracked tiles throughout the kitchen which present a significant tripping hazard.*

- 4) *The Property is not reasonably fit for human habitation on account of the significant defects in the flooring throughout the Property.*

### Reasons for Decision

[13] Having made the above findings in fact, the Tribunal considered that the Property did not meeting the Repairing Standard. The Tribunal therefore made a Repairing Standard Enforcement Order.

The terms of the order are that the Landlord must:

1. Take such steps as are necessary to stop the ingress of wind and water into the Property through the front door.
2. Make such repairs to the flooring as are necessary to bring it up to a standard that is fit for human habitation (level, stable and trip free). This should include removing all cracked and missing floor tiles and making such repairs to the floor as are necessary to stop the floor from deflecting under weight.

[14] The Landlord has three months to carry out these works.

The decision of the Tribunal is 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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Legal Member/Chair

7 July 2025

Date

# Housing and Property Chamber

## First-tier Tribunal for Scotland

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Housing (Scotland) Act 2006: Schedule of Photographs

Property: 2a Gracemount Drive Edinburgh EH16 6RS

Chamber Reference : FTS/HPC/RP/24/5853

Inspection Date: 17 June 2025 - 10.00am

In attendance:

Ms Toth and Ms Cooper (tenants)

Ms Fitten (landlord agent)

Mr A McLaughlin (tribunal legal member)

Mr A Murray (tribunal surveyor member)



**1 Front elevation**



**2 Door**



**3 Bathroom**



**4 Kitchen 1**



**5 Kitchen 2**