

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

2 St Colme Crescent, Aberdour, Fife KY3 0ST ("the House")

The Parties:

Noel David Challinor, 2 St Colme Crescent, Aberdour, Fife KY3 0ST ("the Tenant")

David MacNeil, 6 Inch Avenue, Aberdour, Fife KY3 0TF ("the Landlord")

Tribunal Reference number: FTS/HPC/RP/24/5508

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 provided, determined that the Landlord had not failed to comply with the duty imposed by section 14(1)(b) of the Act.

Background

By application dated 11 December 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:

“(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 and carbon monoxide detection measures and the condition of the hot water cylinder cover. The Tenant also complained of the lack of servicing of the gas boiler and the absence of a Landlords Gas Safety Certificate; the condition of the electrical consumer unit, a loose electrical socket beside the consumer unit and the absence of: an Electrical Installation Condition Report (“EICR”); a certificate of Portable Appliance Testing (“PAT”); and any evidence of a risk assessment in relation to the presence of legionella.

By letter of 11 March 2025, the President of the Tribunal intimated a decision 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 14 August 2025.

The Tribunal inspected the House on 14 August 2025. The property was occupied by the Tenant. The Landlord was not present.

Following the inspection, the Tribunal held a hearing on the same day at the Vine Centre, Dunfermline. Both parties were present.

Tribunal considered the written evidence submitted by the parties. The Tribunal noted that the matters of complaint seemed from the inspection to have been addressed

although the Tribunal did not have before it the various certificates evidencing compliance. The Landlord advised that the certificates had been lodged previously but they would be lodged again in case they had gone astray. The submitted documents were located immediately after the hearing.

Submissions at the Hearing

The Landlord's position was that the works had been completed and evidence supplied.. The Tenant agreed that his concerns appeared to have been addressed but that he was not expert in assessing the works. He had not been provided with any certificates and wanted the benefit of the Tribunal's satisfaction with the completed works.

The Tribunal noted that the purported short assured tenancy agreement had apparently been executed at a time after the law had changed so that the appropriate form of a tenancy would have been a Private Rented Tenancy.

The Tribunal also noted that no landlord was registered in respect of the House.

David MacNeil clarified that he was the owner of the House and the landlord. Gordon and Miriam MacNeil were his parents and they had dealt with the House as his agent previously. He confirmed that he had received legal advice on the tenancy and has now applied to register as the landlord in respect of the House.

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 ground floor flat.
- 2 The tenant has occupied the House since 2012.
- 3 There is a document purporting to be a short assured tenancy agreement between Gordon David MacNeil, Mrs Miriam MacNeil and the Tenant under a tenancy agreement dated 7 December 2021.
- 4 David MacNeil is the registered owner of the House.
- 5 No one is registered as Landlord of the House.

- 6 The provisions of Chapter 4 of Part I of the Act apply to the tenancy.
- 7 The Tenant 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 9 October 2024.
- 8 The inspection on 14 August 2025 revealed:
 - a. A new consumer unit had been installed and the loose socket replaced.
 - b. Interlinked mains smoke alarms had been fitted in the living room, kitchen and hall.
 - c. A new carbon monoxide detector had been installed in the kitchen.
 - d. A new insulating jacket has been installed around the hot water cylinder.

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

Reasons for the Decision

The Tribunal has been provided with a gas safety certificate; an Energy Performance Certificate and a Legionella risk assessment all of which are satisfactory.

The Tribunal observed the new measures for fire detection and established that they work as intended. The Tribunal observed the new CO monitor. The Tribunal observed the new insulation on the hot water cylinder.

The Tribunal noted the new consumer unit and the repair to deal with the loose socket and these works appeared to have been completed satisfactorily.

The Landlord has provided an Electrical Installation Condition Report (EICR) and PAT Certificate which confirm that the installation and appliances are in safe condition. However, the Tribunal noted that the author of the report did not appear to be registered with any of SELECT, NICEIC or NAPIT. The "Scottish Government statutory guidance on electrical installations and appliances in private rented property" specifies that the author of such reports ought to be registered or be an employee of an organisation so registered or that he may instead complete a certificate to demonstrate his competence.

The Tribunal requested by email of 15 August 2025 that the Landlord address this issue.

The Landlord has supplied a completed questionnaire and details of the qualifications of the responsible electrician. The Tribunal was satisfied with these.

The Repairing Standard

The Tribunal considers that the House meets the repairing standard.

Observations

The Tribunal noted that the living room light fitting was broken and that the bathroom basin tap was loose. At the hearing the Tennat complained that works were required to the gutters. These matters were not part of this application and so the Tribunal makes no formal finding.

The Landlord would be well advised to attend to these matters as otherwise a further application to the Tribunal might result.

Decision

The Tribunal, considering the terms of section 13(3) of the Act, determined that the Landlord had not 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 McHugh

Chairperson

Date: 25 August 2025



**-2 St Colme Crescent, Aberdour,
Burntisland, Fife, KY3 0ST
“the Property”/ “the House”)**

Chamber Reference: FTS/HPC/RP/24/5508

SCHEDULE OF PHOTOGRAPHS



1 New Carbon Monoxide detector in Kitchen.



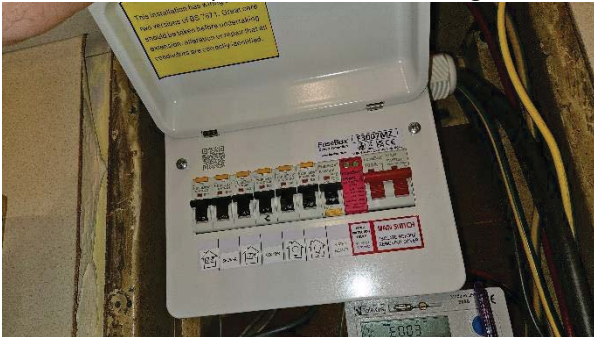
2 Heat detector in Kitchen.



3 Smoke detectors present in Hall and Living Room.



4 New distribution board and test label.



5 New distribution board.



6 Water heater switch secured.



7 Example PAT test label to portable appliance.



8 Boiler.



9 Programmer.



10 New hot water insulation jacket.



11 Loose wash basin tap.



12 Defective pendant light fitting.