

**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) in terms of Section 24(1) of the Housing
(Scotland) Act 2006**

Reference number: FTS/HPC/RP/24/4721

**Re: Property at Flat 5/3, 19 Ashgrove Road. Glasgow G40 4AL (registered under
title number GLA205819) (“Property”)**

The Parties:

**Stephen Higgins and Joanne Higgins, Flat 5/3, 19 Ashgrove Road. Glasgow G40
4AL (“Tenant”)**

**Link Housing Association Ltd t/a Curb Lettings, 2C New Mart Road, Edinburgh
EH14 1RL (“Landlord”)**

Tribunal Members :

Joan Devine (Legal Member); Nick Allan (Ordinary Member)

DECISION

The Tribunal determined that the Landlord has failed to comply with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 ("the Act") in relation to the Property in respect that the Property does not meet the Repairing Standard in respect of Section 13(1)(a) of the Act. The Tribunal therefore issues a repairing standard enforcement order. The Tribunal's decision is unanimous.

Background

1. By application dated 10 October 2024, the Tenant applied to the Tribunal for a determination that the Landlord had failed to comply with their duties under Section 14(1) of the Act.
2. In the application, the Tenant stated that they believed that the Landlord had failed to comply with their duty to ensure that the Property met the repairing standard as set out in Sections 13(1)(a) of the Act. The Application stated that the Landlord had failed to ensure that:
 - The Property was wind and watertight and in all other respects reasonably fit for human habitation.
3. The Tenant made the following complaints in the application and in the notification communications to the Landlord :

- Property needs to be made wind tight to stop ceiling and roof noise and vibration during windy and stormy weather.
 - Header at window to roof terrace needs to be raised to accommodate the window vent to stop it whistling during windy weather and to stop draught and noise.
4. The Application was referred to the Tribunal and an inspection and Hearing were fixed for 21 May 2025.

The Inspection

5. The Tribunal inspected the Property on the morning of 21 May 2025. The weather conditions at the time of the inspection were dry and sunny. The Tenant was present at the Property during the inspection as was Emma Sharp (Development Officer), Andrew Moodie (Property Management Co-ordinator) and Laura Malcolm (Property Management Officer) of the Landlord. The Property is a fifth floor 2 bedroomed flat within a 5 storey building.

The Hearing

7. The Hearing took place on 21 May 2025 at Glasgow Tribunal Centre. The Tenant and Emma Sharp, Andrew Moodie and Laura Malcolm of the Landlord were in attendance.
8. The Tribunal noted that in terms of the tenancy agreement the Tenant had lived in the Property since 18 June 2021. The Tribunal asked when the issues complained of first became apparent. Mrs Higgins said that the issue first arose in January 2022 and continued whenever there was bad weather. She said she reported the issue and 2 months later the site manager cut an inspection hatch in the ceiling. She said that after that, the developer, MacTaggart Construction, attended the Property and cut an inspection hatch. They reported that the roof was as it should be and was "fine". She said that the issue continued and she again reported the problem in August 2022. After that the architect attended the Property and cut another inspection hatch this time in the bedroom. He said that the roof was as it should be. She said a third inspection was carried out by MacTaggarts. She said that when they cut a hole in the ceiling she could see loose wiring. She said that the individual carrying out the inspection reached into the roof space and removed the loose wiring that he could reach. She said that after that the noise improved slightly.
9. Ms Sharp told the Tribunal that the architect approached the ceiling manufacturer. They looked at photographs of the roof space and said that more fixings were required to attach the ceiling to the roof structure. More fixings were installed by MacTaggarts.
10. Mrs Higgins said that two large sections of the ceiling were stripped out in the living / dining area on either side of the light fittings in October 2023 as well as sections in the bedrooms. She said the work took 5 days.

11. Ms Sharp said she had photographs taken by contractors and structural drawings of the building. Ms Sharp said that the roofing sub-contractor had been out to look at the issue as had the engineer who is part of the Landlord's design team but the Landlord still did not know what was causing the noise. She said that the issue had not been raised by anyone in other blocks.
12. Mrs Higgins said she was aware of other occupants having the same problem.
13. Mr Allan prepared a schedule of photographs which will be issued to the Parties with this Decision.

Direction

14. The Tribunal was unable to access the roof space above the ceiling in the Property. The Tribunal considered that further information was required and issued a Direction in the following terms :

The Landlord is required to lodge with the Tribunal by 27 June 2025 :

1. *A copy of any photographs in the possession of the Landlord showing the roof space above the ceiling in the Property taken by the Landlord or contractors or other professionals acting on their behalf.*
2. *A copy of any reports, letters or emails provided to the Landlord by contractors or other professionals acting on their instruction in respect of the issue reported to the Landlord by the Tenant regarding noise in the roof space above the ceiling in the Property.*
3. *A copy of any structural drawings of the block of which the Property forms part which show the structure and construction of the roof above the ceiling in the Property.*

The Tenant is required to lodge with the Tribunal by 27 June 2025 :

1. *A copy of any videos or photographs held by the Tenant showing the structure of the roof area above the ceiling in the Property.*
2. *A copy of any videos or photographs held by the Tenant evidencing the noise which occurs at the Property during windy weather.*

15. In response to the Direction the Tenant lodged photographs showing the roof space above the Property and replastering of the ceiling in the Property after inspection hatches had been cut. The Tenant also lodged a number of videos which showed the ceiling in the Property vibrating and indicated excessive noise in the roof space.
16. In response to the Direction the Landlord lodged copy photographs of the ceiling and interior of the Property; photographs of the roofspace; email dated 9 November 2022 from Hypostyle Architects which referred to air pressure issues in the Property causing the ceiling to lift; inspection report from Kalzip dated 26 February 2024 which concluded that the roof was in reasonably sound structural condition; emails from McTaggart Construction dated 19 February and 20 March 2024; photographs of the external roof of the Property; superstructure layout drawings prepared by G3 Consulting Engineers dated 27 July 2018; email from Marllo Ltd dated 9 November 2022 which concluded "*In our opinion the noises experienced are the result of ceiling lift.*"

The Evidence

17. The evidence before the Tribunal consisted of:
 - 17.1 The Application completed by the Tenant
 - 17.2 Land Register report relating to the Property
 - 17.3 Copy email from the Tenant to the Landlord regarding the issues complained about in the Application
 - 17.4 The Tribunal's inspection of the Property
 - 17.5 The oral representations of the Tenant and the Landlord
 - 17.6 The direction responses lodged.

Summary of the Issues

18. The issue to be determined was whether the Property meets the repairing standard as set out in Section 13 of the Act and whether the Landlord had complied with the duty imposed on them by Section 14(1)(b).

Findings in Fact

19. Tribunal made the following findings in fact:
 - 19.1 The Tenant has lived in the Property since 18 June 2021.
 - 19.2 The tenancy is a tenancy of a house let for human habitation, which does not fall within the exceptions set out in Section 12(1) of the Act. The provisions set out in Chapter 4 of the Act therefore apply.

19.3 The Tenant is experiencing excessive noise in the roof space above the Property.

19.4 The Tenant is experiencing vibration of the ceiling in the Property.

Reasons for Decision

20. Following its inspection; the hearing and review of the documents lodged by the Parties in response to the Direction, the Tribunal determined that the Property does not meet the repairing standard as required by Section 13(1)(a) of the Act.
21. The videos lodged by the Tenant indicated excessive noise in the roof space above the Property. They also showed the ceiling vibrating during high winds. The report from Marllo Ltd appeared to raise concerns about the method of construction of the roof at the Property. It referred to "ceiling lift"; to the possibility that the method of construction would allow the channel joints to flex where pressure is applied and to the hangers having been secured with a single wafer head screw rather than 2no wafer head screws. An email dated 9th November 2022 from Hypostyle Architects, who were the original design team on this development, to MacTaggart, confirms that the Marllo findings support Hypostyle's "assessment of air pressure issues within the room causing the ceiling to lift". The roof system appeared to be a "*Kalzip standing seam roof*". The report from Kalzip dated 26 February 2024 concluded that the roof was in sound structural condition but their inspection seemed to be restricted to the exterior of the roof and they did not appear to have undertaken an inspection of the roof space above the Property.

Decision

6. The Tribunal determined that the Landlord has 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 Property meets the repairing standard in that the Property is not wind and watertight and in all other respects reasonably fit for human habitation.
7. The Tribunal therefore makes a repairing standard enforcement order as required by Section 24(2) of the Act.

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.

**Legal Member
21 July 2025**

Housing and Property Chamber

First-tier Tribunal for Scotland



Inspection Photograph Schedule

5/3, 19 Ashgrove Road, Glasgow G40 4AL

Case Reference: FTS/HPC/RP/24/4721

Date of inspection: 21/05/2025

Time of inspection: 10.00 am

Weather conditions: Dry and sunny

Present:

- Mrs Joan Devine – Legal Member
- Mr Nick Allan – Ordinary Member
- Mr Stephen Higgins – Tenant
- Mrs Joanne Higgins – Tenant
- Ms Emma Sharpe – L/L Representative
- Mr Andrew Moodie – L/L Representative
- Ms Laura Malcolm – L/L Representative

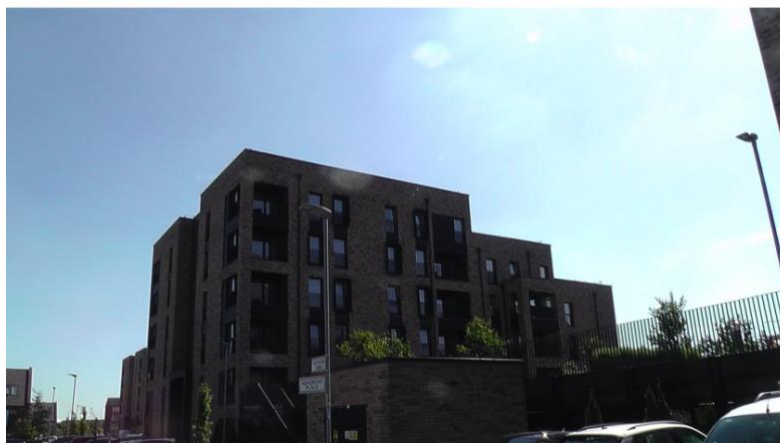


Photo 1 – West elevation



Photo 2 – Living Room window and trickle vents



Photo 3 – Crack in Kitchen ceiling



Photo 4 – Insulation blown out from roof space



Photo 5 – Roof detail next to roof terrace

Nick Allan FRICS
 Surveyor – Ordinary Member
 First-tier Tribunal for Scotland
 (Housing and Property Chamber)
 18th July 2025