



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/CV/24/1929

Re: Property at 45 Stewart Crescent, Lochgelly, Fife, KY5 9PG (“the Property”)

Parties:

Miss Alina Finlay, 2 Adamson Road, Lochgelly, Fife, KY5 9PL (“the Applicant”)

Mrs Susan Mitchell, Anthony Mitchell, 46 North Street, Lochgelly, KY5 9NH (“the Respondents”)

Tribunal Members:

Nicola Irvine (Legal Member) and Ahsan Khan (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted an Order for Payment against the Respondents in favour of the Applicant in the sum of £700.

Background

1. The Applicant submitted an application under Rule 111 of the Housing & Property Chamber Procedure Regulations 2017 (“the Rules”). The Applicant sought an order for payment in respect of “disrepair” of the Property.
2. Case management discussions (“CMDs”) took place on 19 November 2024 and 13 February 2025. The Tribunal issued notes summarising those discussions.
3. On 7 January 2025, the Tribunal received written representations from the Applicant.
4. On 1 November and 9 December 2024, the Tribunal received written representations from the Respondents.

The hearing – 26 August 2025

5. The hearing proceeded by conference call. Both parties participated in the hearing and represented themselves. The Tribunal explained the purpose of the hearing. The Applicant gave evidence herself. She called one witness, namely Craig Simpson. The Respondents gave evidence. The evidence given by the parties and the Applicant's witness is summarised below. The summary is not a verbatim account of what was said at the hearing but rather an outline of the matters relevant to the Tribunal's consideration of the application. At the conclusion of the evidence, the Tribunal adjourned the hearing to enable the members to consider the evidence given. The parties were advised that a written decision with a statement of reasons would be issued to them.

Summary of evidence

The Applicant – Miss Alina Finlay

6. When the Applicant first moved into the Property in January 2023, the condition of the Property seemed fine. She began to notice problems with the windows and doors. On 18 May 2023, she asked the First Respondent to arrange for someone to check the windows. Some of the windows leaked and the kitchen window did not close at all. On 23 May 2023, she received a message that someone would attend the following day to assess the windows. The Second Respondent attended the Property on 24 May 2023 with a glazier. The Respondents arranged for someone to repair the kitchen window in the days following the glazier's attendance. The Respondents instructed her cousin, who is a joiner, to replace the windows in the bedrooms. Her cousin gave the Respondents a quote on 19 June 2023 and the bedroom windows were replaced on 29 July 2023. One of the living room windows was also repaired around the same time.
7. On 11 October 2023, she sent a message to the First Respondent to report that water was coming in the back door and the flooring had been water damaged. The Second Respondent told her that the door needed a new seal but her cousin told her that the components for the door were obsolete, so the door would need to be replaced. The flooring was replaced but nothing was done about the door. On 31 October 2023, the First Respondent sent a message advising that the Second Respondent would attend to look at the back door. He attended and put a new seal on the glass section of the door. The back door was in the same condition when she left the Property.
8. The Second Respondent fitted insulation to the front door of the Property and as a result the door did not close properly and there was a gap between the door and the frame.

9. On 23 January 2024, she reported that there was a problem with the availability of hot water in the bath. The bath only filled up halfway and there was insufficient hot water for her and her children to have a bath. Nothing was done about the water pressure.
10. In February 2024, she contacted the local authority because she had concerns about the condition of the Property. The local authority told her that the Property was not wind and watertight. A copy of a letter the local authority issued has been lodged. On 14 February 2024, she reported to the Respondents that the drain in the back garden was blocked and also asked the Respondents when the doors were to be fixed. The First Respondent asked why she contacted the local authority and she told her that she had made various reports during the year and she felt unsafe.
11. On 20 March 2024, the Respondents asked for access to the Property because they were thinking about selling the Property.
12. The two bedrooms which had issues with the windows were fine after the windows had been replaced. However, the result of the various repairing issues in the Property was that her enjoyment of the Property was diminished. The living room was always very cold and not enjoyable to be in. The walls in her son's bedroom were damp and there was mould in the cupboard. She bought a dehumidifier to manage that. The Respondents reimbursed her for the cost of the dehumidifier. She could not properly use the bath because there was not enough hot water for her and her two children to have a bath. Instead, she went to her mother's house most nights to make sure she and her children could have a bath. The kitchen was usable to cook but the back door was sometimes difficult to lock.
13. She put her name on the local authority housing list in January 2024 and told the Respondents about that, although she indicated it was likely to be some time before she was offered alternative accommodation. On 23 January 2024, she asked the Respondents if they could help, such as providing a letter in support of her application for local authority housing. The Respondents did not reply.
14. She moved out of the Property on 14 May 2024. She never missed a payment of rent and does not accept that there were any rent arrears due to the Respondents.

Craig Simpson

15. He is the Applicant's cousin. He is a qualified joiner with almost 20 years' experience. For approximately 10 years he has been repairing and replacing doors and windows.

16. The doors and windows in the Property needed to be replaced. They were PVC doors and windows and were approximately 25-30 years old. He estimates that the lifespan of PVC windows is approximately 20-25 years. The seals were damaged through wear and tear. Although repairs could have been carried out, the condition of the windows and doors was such that the repairs would be regular and his advice was that the doors and windows needed to be replaced. He did not think that parts would be available to repair them. The windows in the bedrooms which were upstairs were beyond economic repair. The Respondents instructed him to replace the 2 bedroom windows upstairs and he did that. He did not undertake any work in relation to the windows or doors downstairs. The living room window caused water ingress when it rained and he considered it needed to be replaced. The back door dropped quite significantly and caused damage to the flooring.

Mrs Susan Mitchell

17. After the Applicant vacated the Property, friends of her daughter were looking for a place to live and on 12 June 2024, asked if they could rent the Property. A new tenancy was created and the current tenants have not reported any repairing issues in relation to the windows or doors.

Mr Anthony Mitchell

18. He is an electrical and mechanical engineer. Over the course of the tenancy, he received numerous reports from the Applicant about repairing issues. He responded to all of those reports. At the start of the tenancy the Applicant advised that she wanted her dogs to have the full run of the garden but the fence needed to be fixed. It was January so the ground was too hard to install posts to hold the fence. Ultimately, he instructed someone else to repair the fence at a cost of £500. There was another complaint about a brush and that was fixed. Early in the tenancy, he became involved in an argument with the Respondent, and told her that he was becoming worn down by frequent complaints as he was 'no spring chicken'. He was sufficiently concerned by his own behaviour that he asked his wife to attend the Property to calm matters.
19. On 18 May 2023, a report was made about the kitchen window not working properly. Reports were made in relation to the windows and doors. He instructed Advanced Window Repairs to attend to inspect the windows. On 24 May 2023, the contractor from Advanced Window Repairs fixed the kitchen window and also took the kitchen door off of the hinges and readjusted it. The kitchen door was capable of repair. A part was required and a repair was effected shortly after it was reported. After the contractor adjusted the door, the issue was resolved. He took advice from the contractor and following that advice, he arranged for replacement windows to be fitted to the upstairs bedrooms. The Property still has the same doors and windows and the present tenants have not reported any issues with them.

20. The Applicant reported that electrical supplies were tripping but when he attended, he found that there was no problem with the electrical supplies.
21. On 7 December 2023, he had attended at the Property to re-seal the back door. The Applicant reported that the front door was very stiff. However, he was told that the front door seemed to be ok on that particular day.
22. After the Applicant reported an issue relating to the drain in the back garden, the Respondents instructed Dyno-rod to attend and clear the drain.
23. In relation to the heating system, there is not a combi-boiler but rather a gravity fed boiler. There is a pump fitted to it. The bath and hot water were both operational at the time the Applicant was living in the Property. There is also a shower in the Property and the current tenants use the shower without any issue.
24. After the Applicant made a report to the local authority, he made contact with Brian Smith, Housing Officer. It was suggested that the Respondents should instruct an independent contractor to deal with the repairing issues reported. He kept in touch with the local authority to update them in relation to repairs carried out. After the Respondents had the Property valued, the Applicant would not allow the Respondents access to the Property.
25. After the Applicant vacated the Property, he instructed Window World to test the doors and windows for water ingress. A representative from that company attended the Property on 20 May 2024 and produced a letter dated 24 May 2024, a copy of which has been lodged. There was no evidence of water ingress at all.

Findings in Fact

26. The parties entered into a private residential tenancy which commenced 27 January 2023 and ended on 14 May 2024.
27. On or around 18 May 2023, the Applicant reported to the Respondents that some windows leaked and one window did not close properly.
28. The Respondents attended at the Property to check the windows and arranged replacement bedroom windows and a repair to the living room window and kitchen door in or around July 2023.
29. The repair to the kitchen door was inadequate.
30. The front and rear doors of the Property and the living room windows were ill-fitting and caused water penetration during the period of the tenancy.
31. The Applicant's use and enjoyment of the kitchen and living room was diminished as a result of repairing issues.

Reason for Decision

32. The issues to be determined by the Tribunal are as follows:-

- (a) When did the Applicant report any issues regarding the condition of the Property to the Respondents
- (b) What action, if any, did the Respondents take following any such reports and when was the action taken
- (c) Were any required repairs carried out within a reasonable time
- (d) To what extent, if any, was the Applicant's use and enjoyment of the Property affected by any repairing issues
- (e) Is the Applicant entitled to an abatement of rent and if so, to what extent

33. In relation to the bedroom windows, the Applicant's unchallenged evidence was that she reported this repairing issue on 18 May 2023, and the Second Respondent attended on 24 May 2023. Two bedroom windows were subsequently replaced in July 2023. The Tribunal was satisfied that the Respondents responded to the reported issue and arranged for the installation of replacement windows within a reasonable period of time.

34. In relation to water ingress from the kitchen door, the Tribunal accepted the Applicant's unchallenged evidence that she reported the issue on 11 October 2023 and the Second Respondent attended on 31 October 2023. Whilst the Respondents' position was that the issue had been resolved, the Applicant's unchallenged evidence was that she reported the issue again on 14 February 2024. The Second Respondent's evidence was that he attended on 7 December 2023 to re-seal the back door. This would indicate that the repair carried out in May 2023 was not sufficient. There is also a letter from Fife Council dated 28 March 2024 which recorded that the Property failed to meet the repairing standard because the lounge windows and front and rear doors to the Property were ill-fitting, resulting in water penetration. The Tribunal also noted that the Respondents accepted that the Applicant had sent a video of water ingress from the lounge window. Whilst the Tribunal accepted that this may have been an intermittent leak, and notwithstanding a test of the windows by an independent company after the tenancy ended the Tribunal preferred the evidence of the Applicant. It concluded that despite the reports from the Applicant, a sufficient repair was not effected.

35. In relation to the availability of hot bath water, the Tribunal found that there was insufficient evidence to assist the Tribunal in reaching a conclusion about this issue. Whilst the Tribunal accepted the Applicant's evidence about the availability of hot water, the Respondents' position was that this is because of the operation of the gravity fed boiler. In the absence of detailed evidence about the issue, the Tribunal was unable to make any finding in fact about this reported issue.

36. In relation to the drain at the rear of the Property, the Tribunal accepted the Applicant's unchallenged evidence that she reported that on 14 February 2024. Although the Respondents' position was that Dyno-Rod was instructed to attend and clear the drain, there was no information before the Tribunal about when that was done. The letter from Fife Council indicates that as at the date of the inspection (5 March 2024) the drain was still blocked. In relation to this issue, the Tribunal preferred the evidence of the Applicant.
37. The Tribunal considered to what extent the Applicant's use and enjoyment of the Property was diminished as a result of the repairing issues not properly attended to within a reasonable time. It concluded that the Applicant's use and enjoyment of the living room and kitchen were diminished. Although both rooms were usable, the ill-fitting doors and windows resulted in the Property not being wind and watertight. The diminution of enjoyment lasted from the issue being reported on 11 October 2023 to the end of the tenancy on 14 May 2024. The Applicant also mentioned dampness in her son's bedroom and explained that she managed that by using a dehumidifier for which she received reimbursement from the Respondents. The Tribunal found that it was not appropriate to make any abatement of rent in relation to that issue. The Tribunal found that there were no repairing issues affecting the Applicant's enjoyment of the three bedrooms and bathroom of the Property.
38. The monthly rent payable was £575, payable in advance, For the reasons set out above, the Tribunal found that an appropriate abatement of rent is £700. This is on the basis that the Applicant's use and enjoyment of the kitchen and living room was not what it should have been for a period of 7 months. The kitchen was usable, and some repairs were carried out to the back door, albeit the repairs were inadequate. The living room was usable, but was very cold as a result of the condition of the windows. On the basis that the Applicant paid rent to the Respondents, the Tribunal made an order for payment against the Respondents in favour of the Applicant in the sum of £700.

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/Chair

6 October 2025

Date