

Housing and Property Chamber

First-tier Tribunal for Scotland



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

STATEMENT OF DECISION: Housing (Scotland) Act 2006 Section 24 (1)

Chamber Ref: FTS/HPC/RP/25/0459

Title No: LAN176695

2 Newlands Drive, Hamilton ML3 7RL ("The Property")

Miss Stephanie Murray 2 Newlands Drive, Hamilton ML3 7RL ("the tenant")

Emilio Josa Manzano Sevilla and Zenni Huang Monzano Sevilla, Urb Penamar, Bw 34 Calle de la Morena 6, Alicante, 03540, Spain ("the landlords")

Tribunal Members: Richard Mill (Legal Member) and Sara Hesp (Ordinary Member)

Decision

The property does not meet the repairing standard. The landlords have not complied with the duty imposed by section 14(1) of the Housing (Scotland) Act 2006. A Repairing Standard Enforcement Order is necessary.

Background

1. The tenant applied to the tribunal for a determination of whether the landlords have failed to comply with the duties imposed by section 14(1) of the Act in respect of the property.
2. In the written application the tenant stated that the landlords have failed to comply with their duty to ensure that the property meets the repairing standard in a number of respects.
3. On 16 October 2025 the tenant withdrew the application. The tribunal considered whether the application should be determined or abandoned in terms of Schedule 2, paragraph 7(3) of the Act. Given the nature of the complaints and concerns regarding safety for the

public, the tribunal determined to continue the application for determination.

Inspection

4. The tribunal inspected the property on 20 November 2025 at 10.00 am. The tenant permitted entry to the tribunal members. The landlords personally attended and participated throughout the inspection process.

Hearing

5. Following the inspection of the property, the tribunal convened a hearing at Brandon Gate, Hamilton ML3 6AU on 20 November 2025 at 11.45 am. The tenant did not participate. Both landlords attended the hearing.

Findings in Fact

6. The tribunal makes the following findings in fact (as at 20 November 2025):
 - a. The title to the subjects known as 2 Newlands Drive, Hamilton ML3 7RL is held by the landlords with reference LAN176695.
 - b. The property is a ground floor flat in an ex-local authority block of four built around 1950. The property consists of a hallway with cupboard off, kitchen, bathroom, living room and three bedrooms.
 - c. The external render/roughcast is cracked in areas but there is no evidence that there is water ingress or any damp issue arising from this.
 - d. The front UPVC door to the property is aged. There is evidence that there has been water ingress underneath the door at floor level. Some seals around the door have perished.
 - e. The tilt and turn UPVC windows are aged. A number of the handles do not function correctly prohibiting the windows being opened and closed effectively.
 - f. There are interlinked smoke detectors and a heat detector in the kitchen. The heat alarm in the kitchen is not interlinked to the smoke alarms.
 - g. There are high moisture readings in some areas of the property. This is evidence of damp / and or condensation in the cupboard

off the hall and the two front bedrooms. A specialist report obtained by the landlords has recommended remedial work.

- h. The bathroom within the property is in a poor state of disrepair. The electric shower is said to be malfunctioning and can cause electric shocks. The tiles in the shower are cracked and the grouting and seals are defective. The light above the shower is not designed nor suitable for its location and does not work. The towel radiator has caused sparks in the past and has been permanently switched off.
 - i. There is an up-to-date Gas Safety certificate dated 7 February 2025 which evidences that the boiler and hob function and are safe. There is an EICR which is dated 29 October 2023, and now more than two years old. The tenant has complained about the safety of some electrical components since then.
7. Reference is made to the schedule of photographs taken at the time of the tribunal's inspection which are attached to this decision.

Reasons for Decision

- 8. The tribunal determined the application having regard to the bundle of papers which were made available, together with their observations at the inspection and submissions noted at the hearing.
- 9. The tribunal is only able to consider the complaints which formed part of the intimated application and had an obligation to consider the complaints as at the date of the inspection and hearing on 20 November 2025.
- 10. The tribunal was satisfied having regard to all the available evidence that there was sufficient information and material with which to reach a fair determination of the reference.
- 11. The landlords are actively seeking to sell the property. They intend to do so with the applicant/tenant in situ. The landlords have provided a Home Report dated 11 June 2025.
- 12. The landlords' report from Russell Preservation Damp Specialists dated 5 November 2025. A limited number of recommendations are made, particularly in respect of the hall cupboard and rear right bedroom. The use of an MSC1 Mould Killer is to be applied. High and low level vents are to be fitted to the hall cupboard door. The bathroom is to be refurbished as it is currently in a poor state of disrepair so only one recommendation was made, to ensure that a 20 minute run on timer extract fan is fitted and connected to the light switch. The tenant was provided with condensation documentation and advice. All these works are to be undertaken imminently but are required to ensure the

property meets the Repairing Standard in terms of the 2006 Act. An up-to-date EICR is required after these works have been completed. The smoke and heat alarms require maintenance or replacement to meet current safety guidelines and the Repairing Standard. The windows and doors require attention to ensure that the property is wind and watertight.

13. The tribunal found that the landlords have engaged with their responsibilities as landlords. They have acted in good faith and been reliant upon their professional letting agent, Hemming Homes. They have provided communications which evidence that they have authorised repair work when matters have been brought to their attention. They have made considerable efforts to lodge written submissions in this tribunal process, attend the inspection and attend the hearing. They were surprised that there are outstanding repair issues following their attendance at the inspection. They did not disagree with any of the findings of the tribunal from the inspection which were shared with them for comment at the hearing. The work required to be undertaken to ensure that the property meets the repairing standard were discussed with them. They acknowledge that the issues detected require to be rectified. They have instructed a contractor to fully upgrade the bathroom within the property. They have also instructed a damp specialist who has made recommendations. The bathroom is due to be upgraded on 25 November 2025, and the recommended damp works are being undertaken on 1 December 2025.
14. The tribunal determined to make a Repairing Standard Enforcement Order (RSEO). The tribunal determined that the landlord be provided with a period of 4 weeks to carry out these works which is reasonable given the nature and extent of the works. There will now be serious legal consequences if the landlord fails to comply with the tribunal.

Decision

15. The tribunal, having made enquiries for the purposes of determining whether the landlord has complied with the duty imposed by Section 14(1) of the Housing (Scotland) Act 2006 ("the Act") in relation to the property, determined that the landlord has failed to comply with their duty imposed by Section 14(1)(b) of the Act in respect that the property does not meet the repairing standard.

Right of Appeal

17. In terms of section 46 of the Tribunals (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.

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

In witness whereof these presents type written on this and the preceding pages are executed by Richard George Mill, solicitor,
legal member of the tribunal at Edinburgh on 28
November 2025 before this witness:-

R Mill

_____ Legal Member

C McNaught

_____ Witness

Cathy McNaught Name

Housing and Property Chamber

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Schedule of photographs

All photographs were taken on 20 November 2025.



*Photograph 1: front elevation.
The subject property is ground floor right hand side of a block of 4*

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*Photograph 2: Bed 1: front internal wall.
Normal levels of moisture present*



*Photograph 3: Bed 1: side internal wall.
Normal levels of moisture present.*



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*Photograph 4: Bed 1: behind bed.
Moisture levels higher than normal.*



Photograph 5: Bed 1: vent to external wall



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Photograph 6: Bed 2: normal levels of moisture present.



Photograph 7: Hallway: smoke detector



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Photograph 8: Front door threshold



Photograph 9: Kitchen: heat detector



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Photograph 10:: Kitchen: second heat detector



Photograph 11: Kitchen: Carbon monoxide detector



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Photograph 12: Living room: smoke detector



Photograph 13: Hall cupboard: consumer unit



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Photograph 14: Hall cupboard: consumer unit with residual current devices



Photograph 15: Hall cupboard: mould to walls

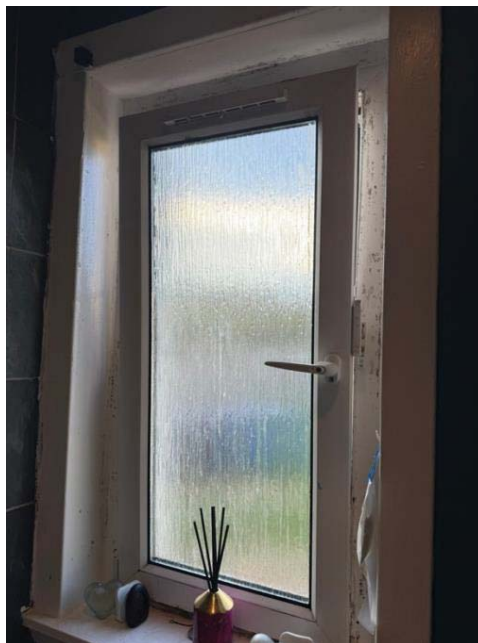


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Photograph 16: Bathroom: Plug to bath



Photograph 17: Bathroom: Window (open position) but with mould around



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Photograph 18: Bathroom: Shower tray and tiles to walls in poor condition

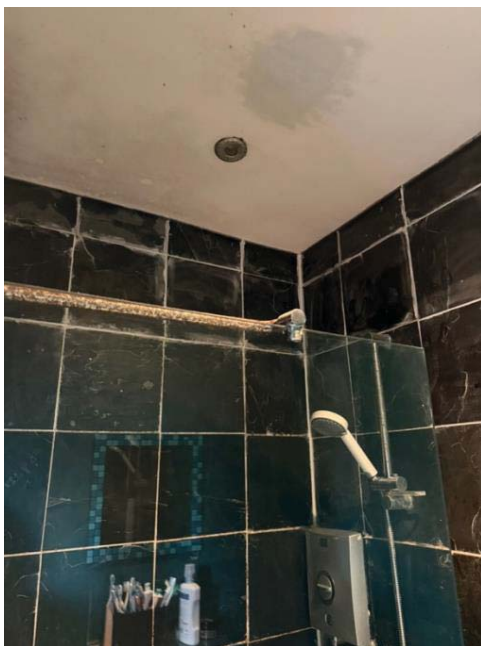


Photograph 19: Bathroom: Shower



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Photograph 20: Bathroom: light above shower



Photograph 21: Bathroom: Towel rail



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Photograph 22: Bathroom: vent to external wall



Photograph 23: Living room: Window (open position)



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Photograph 24: Living room: Window catch



Photograph 25: Bedroom 1: Window (open position)



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Photograph 26: External side elevation: rendering



Photograph 27: External side elevation: rendering



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Photograph 28: External rear elevation



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