

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Determination: Housing (Scotland) Act 2006: Sections 26 and 27

22E Fullarton Street, Kilmarnock, KA1 2QT, registered in the Land Register of Scotland under title number AYR58162 ("the Property")

Case Reference FTS/RP/25/3484

Miss Jennifer Bauld, formerly 22E Fullarton Street, Kilmarnock, KA1 2QT ("The Applicant" and The Former Tenant")

Mr Douglas Johnston and Mrs Nicola Johnston, 98 Station road, Wombourne, WV5 9EN ("The Landlord")

Lime Green, 14 The Cross, Prestwick, KA9 1AJ (the Landlord's Representative")

Tribunal Members – Martin McAllister (Legal Member) and Donald Wooley (Ordinary Member)

Decision

The tribunal determined:

(One) that the Landlord has failed to maintain the Property to the repairing standard as set out in Section 13 of the Housing (Scotland) Act 2006 and

(Two) that a repairing standard enforcement order (RSEO) be made in terms of Section 24 of the Housing (Scotland) Act 2006.

Background

1. By application dated 12 August 2025, the Applicant applied to the Housing and Property Chamber of the First-tier Tribunal for Scotland for a determination of whether the Landlord has failed to comply with the duties imposed by Section 14 (1) (b) of the Housing (Scotland) Act 2006 as amended ("the 2006 Act"). The application is in terms of Section 22 (1A) of the 2006 Act.

2. The application was accepted for determination on 25 September 2025.
3. The Applicant and the Respondent were parties to a private residential tenancy agreement.
4. Subsequent to the submission of the Application and, the Tribunal was advised that the tenancy had terminated.
5. The tenancy was brought to an end upon its termination and accordingly, under Schedule 2, Paragraph 7(1) of the 2006 Act, the application was treated as having been withdrawn under Section 22(1) of the 2006 Act.
6. The tribunal considered the application in terms of Schedule 2, Paragraph 7 (3) of the 2006 Act and decided to continue to determine it.
7. The tribunal issued a Minute of Continuation dated 23 November 2025 and this was intimated to the Landlord.

The Application

8. The application states that the Property does not meet the repairing standard set out Section 13 of the 2006 Act: it states that the structure and exterior of the house (including drains, gutters and external pipes) are not in a reasonable state of repair and in proper working order, that installations in the house for the supply of water, gas and electricity are not in a reasonable state of repair and in proper working order, that fixtures, fittings and appliances provided by the landlord under the tenancy are not in a reasonable state of repair and in proper working order and that any furnishings provided by the landlord under the tenancy are not capable of being used safely for the purpose for which they are designed.
9. The application also states that the Property does not meet the tolerable standard in relation to electrical installations, supply of hot and cold water, issues in relation to the water closet and the shower room, satisfactory access to all external doors and does not have a satisfactory provision for food preparation and storage.
10. The application makes specific reference to the following matters:
 - 10.1 The hot water system control panel is not functioning properly.
 - 10.2 Non functioning oven and inadequate food preparation space.
 - 10.3 No blinds or curtains
 - 10.4 Absence of a mail catcher at the front door
 - 10.5 Poor condition of close and garden ground

Property Inspection

11. The members of the tribunal inspected the Property at 10 am on 12 December 2025. The Landlord was not present and was represented by Mr Stephen McVean and Ms Kara Ross of Lime Green, letting agents.
12. A schedule of photographs prepared by the Ordinary Member, is attached to this Decision and is referred to for its terms.

Direction

13. On 23 November 2025, The Tribunal issued a Direction requiring the Landlord to produce a current Electrical Installation Condition report ("EICR"), a current Gas Safety Certificate, evidence of interlinked fire devices and a heat alarm, and a note of the Landlord's residential address.
14. The Direction was complied with.

Findings on Inspection

15. The Property is second floor tenement flat. The accommodation comprises of a living room, a bedroom, a bathroom and a kitchen.
16. There was a functional hot water control panel.
17. There was a functioning oven.
18. There was a fitted kitchen which included work surfaces for food preparation and cupboards for food storage.
19. There are functioning interlinked smoke and heat detectors.
20. There are some fitted curtains and blinds.
21. The garden ground to the rear of the tenement is overgrown.
22. The bottom step in the common stair is damaged.
23. There is a broken pane in the close window at the rear of the tenement.
24. The plaster in the ceiling of the close is damaged at the second floor of the tenement.

Hearing

25. A hearing was conducted at Ardeer Community Centre, Stevenston at 12 pm. It was attended by Ms Ross of Lime Green, letting agents attended by telephone.
26. The Legal Member set out the purpose of the hearing.
27. The Ordinary Member stated the findings from the Inspection. He subsequently prepared a schedule of photographs previously referred to.
28. It was noted that the Respondent had produced a current EICR and Gas Safety Certificate.
29. The Ordinary Member referred to the ceiling plaster in the close, the broken window pane and the damaged step. He indicated that these constituted health and safety issues which would have to be addressed by the Respondent.
30. Ms Ross was advised that, if a RSEO was made, no new tenancy could be entered into by the Respondent until it had been discharged.

Discussion and Determination

31. The tribunal determined that the Property did not meet the repairing standard on 12 December 2025.
32. The tribunal noted that some works had been carried out in the Property since the application had been submitted.
33. The tribunal noted that the terms of the EICR and Gas Safety Certificate were acceptable.

The tribunal determined to make a RSEO in the following terms:

- 34. Reinstate the bottom stair tread leading to the upper floors, ensuring that it is level, in a reasonable state of repair and does not represent a trip hazard.**
- 35. Replace broken window pane at rear facing window at the common stairwell**
- 36. Repair and reinstate section of missing ceiling plaster above the stairwell in the common access close ensuring that it is in a reasonable state of repair.**

The Landlord requires to comply with the RSEO by 31 January 2025.

Reasons

37. The tribunal had regard to what it had found at the inspection of the Property.

38. The tribunal had regard to the statutory obligations imposed upon a residential landlord to ensure that properties meet the repairing standard throughout tenancies.

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.

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.

M McAllister

Martin J. McAllister,
Solicitor, legal member of the
Tribunal.
17 December 2025.