

Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 24 (1) of the Housing (Scotland) Act 2006 ("The Act")

Chamber Ref: FTS/HPC/RP/25/1373

Re: Property at 42 Babylon Drive, Bellshill, ML4 2DN ("the Property") being the subjects registered in the Land Register of Scotland under Title Number LAN145425

Parties

Mr Raymond Simmonds, ("the Tenant")

Mr Benedick Nevo ("the Landlord")

Tribunal Members:

Andrew McLaughlin (Legal Member) and Mr Kingsley Bruce (Ordinary Member)

Decision

[1] The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") having made such enquiries as it saw fit for the purposes of determining whether the Landlord had complied with the duty imposed by Section 14 (1) (b) of the Housing (Scotland) Act 2006 ("the Act") in relation to the Property determined that the Landlord has failed to comply with the duty imposed by Section 14 (1) (b) of the Act, and has determined to make a Repairing Standard Enforcement Order ("RSEO").

Background

[2] By email dated 28 March 2025, The Tenant submitted an Application seeking a determination that the Landlord has failed to comply with his duty under Section 14 (1)(b) of the Act in that the Property does not meet the Repairing Standard in respect of the following paragraphs of Section 13 (1) of the Act:

13 (1) (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.

13 (1) (h) (1) *It has an interlinked system of fire and smoke alarms and adequate carbon monoxide alarms*

13 (1) (h) (3) *It has satisfactory provision for natural and artificial lighting, for ventilation and for heating;*

13 (1) (h) (5) *It is substantially free from rising or penetrating damp;*

13 (1) (h) (6) *It has satisfactory thermal insulation*

13 (1) (h) (8) *It has a sink provided with a satisfactory supply of both hot and cold water within the house;*

13 (1) ([k]) *Where the house is in a tenement, common doors are secure and fitted with satisfactory emergency exit locks*

[3] The Application narrated the following issues in the Application:

“damp proof to bare wall needed as landlord refused to fix it and its riddled now and constant smell of fish due to this kitchen front door all bedrooms kids both have disabilities and both asthmatic so very bad for there health daughters room is the worst and she is suffering health wise due to this”

Procedure

[4] The Tribunal arranged an inspection at the Property at 10 am on 4 December 2025 and a Hearing thereafter at 11.30 at Glasgow Tribunals Centre. All parties were competently notified of the date and time and location of the inspection and Hearing.

[5] The Tribunal Members attended at the Property at the scheduled time which had been competently notified to all parties. The Landlord was neither present nor represented. The Tenant was present and facilitated the inspection.

The Inspection

[6] The Tribunal inspected each room in the Property and inspected the front and rear aspect of the Property from street level. The Tribunal observed the mould and condensation identified by the Tenant in the kitchen, around the front and rear doors internally, and upstairs to each of the bedrooms. The Tribunal also observed the smoke alarms in the Property.

Analysis of the areas identified in the Inspection

[7] The Tribunal noted black spot mould and discolouration to decoration in localized areas in each of the rooms highlighted by the tenants. Condensation was observed on the inside of double-glazed windows. The Energy Performance Certificate (EPC) shows an energy rating of C and states cavity wall insulation and 300mm of insulation within the roof void, although this was not verified by the Tribunal at the time of the inspection. On the basis of a single inspection, observations were made by the Tribunal relating to the conditions noted.

[8] The Tenant advised that the gas boiler was not functioning properly and that this had been reported to the Landlord recently. The extract hood in the kitchen above the hob had been loose/removed and required to be re-instated. The front hallway and rear vestibule are unheated areas.

[9] There were no other structural issues which would give rise to significant condensation issues within the property. From enquiry with the Tenant, when functioning, the heating is turned on for short periods only, first thing in the morning and early evening. Radiator thermostats were turned to the lowest setting, trickle vents on windows were closed. The main living area was being heated by a room heater, whilst heating was off in the remainder of the house.

[10] To prevent condensation within a Property such as this, it is considered that sustained background heating throughout the house, not concentrated in one area only, whilst other areas are cold, at a level which would reduce warm/cold cycles within the property and ensuring ventilation allowing moist air to escape are necessary to prevent conditions suitable for development of condensation. Ensuring that the heating system is fully operational and that any provisions for extraction of cooking fumes/moisture are in proper working order, is essential.

[11] The Tribunal did note that the Tenant informed the Tribunal that the boiler did not work. The Tribunal noted that as a clear concern. The Landlord should demonstrate evidence of the boiler being reliably functional. This was not mentioned in the Application but Section 13 (1) (c) was identified as being a relevant concern and so this was within the scope of the Tribunal's inspection.

[12] The Tribunal notes the extractor hood was missing in the kitchen. That did not help with the mould issues and was a clear concern. It should be reinstated and made operational.

[13] The Tribunal noted that the smoke alarms were not compliant with current standards. It was unclear if they were interlinked and the detector in the kitchen should be a heat detector. This should be remedied by the Landlord.

[14] The Tribunal also observed two missing roof tiles at the front of the Property, albeit no indication of water ingress was seen at the time of the inspection.

[15] The Tenant informed the Tribunal that they did not intend on appearing at the Hearing. The Tenant made continuous comment during the inspection about a variety of issues both relevant and irrelevant but the Tribunal did not consider much of what was said outside of the Hearing to be relevant. The Tribunal did not want to conflate the two separate procedural aspects.

The Hearing

[16] No parties thereafter attended the Hearing at 11.30pm. The Tribunal deliberated its decision and made the following findings in fact.

Findings in Fact

- 1) *The Respondent has not demonstrated that the Property has an interlinked system of fire and smoke alarms.*
- 2) *The Respondent has not demonstrated that the boiler works.*
- 3) *There is no extractor fan in the kitchen.*

Reasons for Decision

[17] Having made the above findings in fact, the Tribunal considered that the Property did not meet the Repairing Standard. The Tribunal therefore made a Repairing Standard Enforcement Order.

The terms of the order are that the Landlord must:

1. Demonstrate that the Extractor Fan in the kitchen has been reinstated and made operational.
2. Demonstrate that the Property has a compliant smoke/fire detection system.

3. Demonstrate that the boiler is in good working order and the Property has adequate heating and provision for the supply of hot water.

[18] The Landlord has two months to comply.

The decision of the Tribunal is unanimous

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.

A McLaughlin

Legal Member/Chair

16 December 2025

Date