



Written decision and 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/25/0667

Re: Property at Flat 3, 656 George Street, Aberdeen, AB25 3XN (“the Property”)

Parties:

Miss Maryn Grieve, Mr Andrew MacLeod-Grainger, 23 Bellfield Road, Aberdeen, AB16 6QB (“the Applicants”)

Mr Stephen Robertson, The Cottage, 8 Arbeadie Terrace, Banchory, AB31 5TN (“the Respondent”)

Tribunal Member:

Lesley Ward (Legal Member), Melanie Booth (Ordinary Member)

Outcome

1. The First-tier Tribunal refused the application.

Background

2. This was a hearing in connection with an application in terms of rule 111 and section 71 of the Private Housing (Tenancies) (Scotland) Act 2016 for civil proceedings arising out of a private residential tenancy agreement (‘PRT’). A case management discussion had taken place on 8 October 2025. The Applicants attended and were represented by Mr Kareem Abu Shawar of the Aberdeen Law Project. The Respondent attended.

Preliminary matters

3. The tribunal had issued directions at the CMD and both parties had provided further documentation in support of their position. Some of the documents had been

lodged within a few days of the hearing and the tribunal decided to allow all of the documents to be received since there were no objections by either party.

4. Findings in fact and law

- The Respondent is the landlord and owner of the property.
- The Respondent lived in the property from 2014 to 2022.
- The Applicants were the first tenants to the property.
- The Applicant let the property through Caroline Walker Letting Agents letting agents.
- The property is a converted former church with 11 separate flats.
- The property is on the second floor with flats above and below.
- Specialist equipment and scaffolding is required to inspect the roof and exterior of the building and to effect repairs.
- Newton Factors acted as factors to the whole building until around January 2024.
- The Applicants entered into a private residential tenancy agreement ('PRT') with the Respondent for let of the property with a start date of 25 July 2022.
- The agreed monthly rent was £795.
- In September 2022 the Applicants notified the letting agent that there was water dripping into the property from the bay window in the open plan lounge.
- The Respondent inspected the property on 6 September 2022.
- The Respondent emailed the factor on 7 September 2022, copied the letting agent in on the email, explaining the issue raised by the Applicants and seeking an urgent response.
- The Applicants made an application to the tribunal in respect of the repairing standard in October 2022.
- The Application was subsequently abandoned as the factors had instructed a common repair to the property in January 2023 and it was thought that the leak had been repaired.
- The Applicants had further water ingress from the window in the open plan lounge in March 2023.
- A further common repair was carried out in June 2023.
- The Applicants had further water ingress from the same window in July 2023 and the problem became more pronounced in September 2023.
- When the rainwater was dripping into the property the Applicants had to place a dish on the window sill to collect the water.
- Every two weeks or so the Applicants had to wipe away mould that appeared around the window frames.
- The Applicants had to replace a cat scratcher and dressing gown which were damaged by mould, at a loss of £60.
- Around March 2023 the property factor arranged a painter to paint the living room ceiling with mould resistant paint.
- A contractor appointed by the letting agent attended at the property in December 2023 was unable to suggest a temporary fix for the problem.
- The Respondent inspected the property in September 2022 when the leak first came to light.

- The Respondent actively engaged with the property factors to try and ascertain the source of the leak and to have repairs carried out.
- The repair was understood to be a common repair and all of the 11 owners were expected to share in the cost.
- From September 2023 until December 2023 the property factor was tasked with identifying the source of the leak.
- The property factor ultimately recommended a full survey of the property at a cost of around £20,000.
- The Respondent and the other owners decided to dispense with the services of the property factor in January 2024 and to obtain their own quotation to repair the property and fix the leak.
- The Respondent made an application to the tribunal against the property factors for a breach of the code around the end of 2023.
- The Application was withdrawn when they stepped down as factors in March 2024.
- The Respondent also dispensed with the letting agent in February 2024 as despite copying them in to all correspondence with the factor regarding the repairs, the letting agent did not communicate effectively with the Applicants regarding the steps being taken to identify the source of the leak and to fix it.
- The underlying source of the leak was not ascertained until around May 2024 with the repairs being effected in September 2024.
- The Applicants were given notice to leave the property on 9 January 2024 as the Respondent had decided to sell the property.
- The Respondent deducted the sum of £200 from their last rental payment in recognition of their inconvenience regarding the leak.
- The tenancy came to an end on 23 February 2024.

Reasons

5. The Applicants are seeking an order for £1260.14 in respect of damage to property and inconvenience and distress due to water ingress to the property. The Applicants acknowledged that they received a rent reduction of £200 from the Respondent at the end of the tenancy but in their view this was not in full and final settlement of any future claim. The Applicants provided receipts for their damaged belongings of around £60. The remaining sum sought is for their inconvenience and distress caused by the leak, or alternatively, an abatement of rent due to their loss of enjoyment of the property.

6. The tribunal heard oral evidence from Ms Grieve and Mr Robertson. Both parties had also provided a large volume of documents including copy emails and a note of arguments.

7. The Applicants' representative submitted that the property did not meet the repairing standard for 70 percent of the duration of the tenancy and it was no defence to the application for the Respondent to blame the property factor for the lack of progress. Mr Abu Shawar initially submitted that the Respondent had an obligation to effect an emergency repair in the absence of any effective action by the property factor. After hearing oral evidence from Ms Grieve he appeared to submit that even if an

emergency repair was not required, the Respondent should have bypassed the property factor and obtained the consent of the other owners to get the repair carried out, to meet his obligations in terms of the repairing standard.

8. It was Ms Grieve's evidence that the leak stopped after each of the repairs in January 2023 and June 2023. The leak re-emerged in July 2023 and from September 2023 the leak persisted until the tenancy came to an end in February 2024. It was put the Respondent that when he became aware in September 2023 that the leak had re-emerged he should have effected a temporary repair inside the property pending any common repair.

9. It was the Respondent's evidence that until the underlying source of the problem was known, this would be a waste of time and money. Even if he had replaced the windows and the ceiling to the property at considerable expense, this would not have solved the problem. The Respondent gave evidence about the numerous attempts that had been made to identify the source of the problem and to rectify it. The factors handled the matter badly, the letting agent failed to communicate effectively with the tenants about the efforts that were being made and he and the other owners ultimately removed the factors and the property is now self factoring.

10. The Respondent has a contractual obligation to ensure the property meets the repairing standard. The Respondent also has a statutory obligation in terms of section 14 of the Housing (Scotland) Act 2006 to ensure the property meets the repairing standard. Section 14 provides:

14Landlord's duty to repair and maintain

(1)The landlord in a tenancy must ensure that the house meets the repairing standard—

(a)at the start of the tenancy, and

(b)at all times during the tenancy.

(2)The duty imposed by subsection (1) includes a duty to make good any damage caused by carrying out any work for the purposes of complying with the duty in that subsection.

(3)The duty imposed by subsection (1)(b) applies only where—

(a)the tenant notifies the landlord, or

(b)the landlord otherwise becomes aware,

that work requires to be carried out for the purposes of complying with it.

(4)The landlord complies with the duty imposed by subsection (1)(b) only if any work which requires to be carried out for the purposes of complying with that duty is

completed within a reasonable time of the landlord being notified by the tenant, or otherwise becoming aware, that the work is required.

11. Section 14(4) of the Act requires that any work required to bring a property into line must be carried out within a reasonable time of the landlord being notified that the work is required. The leak was first identified in September 2022 via the letting agent. The Respondent gave oral evidence and provided documentary evidence to the effect that he liaised with the letting agent and property factor and a communal repair shared by all the owners was carried out in January 2023. When it became clear in March 2023 that this was ineffective, a further common repair was carried out in June 2023. A further leak was identified in July 2023 and in September 2023 it was decided that further work and investigation was needed. The Respondent gave evidence that the building is old and very large. Scaffolding is needed to investigate the roof and windows and it was very difficult to find the source of the water ingress. The owner of the flat above lives abroad and he initially stated that there was no water penetrating his flat. The Respondent was constantly emailing the property factors for progress and as the letting agent was being copied in, he erroneously assumed the letting agent was keeping in touch with the tenants. The Respondent got to the point that he got in touch with the other owners, agreed a plan to bypass the property factors and ultimately get the problem of water penetration into his property sorted as a priority. The tribunal was satisfied that the Respondent had acted reasonably in his actions and in his endeavours to try and rectify the problem and have the leak repaired. The tribunal was therefore satisfied that the Respondent had complied with his contractual and statutory duties. The tenancy came to an end before the property was repaired.

12. Turning to the value of the Applicants claim, for distress and inconvenience and damage to property. It was not disputed that there was a leak in the window of the living room in the property when it rained heavily, from September 2022 until January 2023, from March 2023 until June 2023 and from September 2023 until February 2024. The water had to be collected in a dish and once every two weeks the areas around the window had to be wiped down. The Applicants position was that the smell and the damp meant they were reluctant to use the living room although the area was open plan and they used the open plan kitchen to cook and eat. The Applicants had produced photos of dressing gown and cat scratcher which had been damaged, and receipts for the value of £60. Even if the tribunal had been satisfied that the Respondent had not complied with his obligations in respect of the repairing standard in a timely manner, the tribunal considered that by making a payment to the Applicants of £200 in respect of their inconvenience, this was a reasonable sum in all of the circumstances to cover their inconvenience and losses of £60.

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.

Lesley Ward

LA Ward

30 January 2026

Legal Member

Date