



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

Reference number: FTS/HPC/RT/25/2115

Re: Property at 11(1F1) Smiths Place, Edinburgh, EH6 8NT (“the Property”)

The Parties:

Mr Rana Imran Ashiq (“the Tenant”)

Mr Shabbir Hussain, 78 Craighall Road, Edinburgh, EH6 4RG (“the Landlord”)

City of Edinburgh Council, Waverlay Court, 4 East Market Street, Edinburgh, EH8 8BG (“the Third Party Applicant”)

Tribunal Members: Ruth O’Hare, Legal Member, and Robert Buchan, Ordinary Member

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) unanimously determined that the Landlord had failed to comply with the duties imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 (“the Act”). The Tribunal accordingly made a Repairing Standard Enforcement Order (“RSEO”) as required by Section 24(2) of the Act.

Background

- 1 This is an application under section 22(1A) of the Housing (Scotland) Act 2006 (“the Act”) by the Third Party Applicant for a determination that the Landlord has failed to comply with the duties imposed by Section 14(1)(b) of the Act.
- 2 The application stated that the Landlord had failed to comply with the repairing standard for the following reasons:-
 - (i) The Landlord had failed to provide the Third Party Applicant with an electrical installation condition report (EICR), gas safety certificate (“GSC”) and portable appliance testing (PAT) certificates.
 - (ii) There was no evidence of smoke and heat detection within the property in compliance with current standards;

- (iii) The kitchen window was broken and required repair;
 - (iv) The bath required to be resealed;
 - (v) The door handle to one of the bedrooms required to be repaired or replaced; and
 - (vi) The Third Party Applicant had recommended the installation of a fire door in the kitchen.
- 3 The application was referred to a tribunal for a determination and Notice of Referral was served on the Landlord under Schedule 2, Paragraph 1 of the Act. An inspection and hearing was scheduled to take place on 12 January 2026.
- 4 On 10 December 2025 the Tribunal received an email from the Landlord advising that he had made attempts to complete the works but had been unable to do so due to the lack of available contractors. He confirmed that the work would be finished by the end of January 2026. The Landlord requested a postponement of the inspection and hearing. The Tribunal sought comments from the Third Party Applicant on the postponement request. On 18 December 2025 the Tribunal received an email from the Third Party Applicant who did not object to the postponement. The inspection and hearing was therefore rescheduled to take place on 1 April 2026.
- 5 Prior to the inspection and hearing, the Tribunal received a further email from the Landlord explaining that the works were still outstanding. The Landlord provided various reasons for the delays, including lack of availability of contractors and his own health issues. The Landlord advised that he would be unable to attend the inspection and hearing. He asked for a further two to three weeks for the works to be completed. The tribunal received the Landlord's email shortly prior to the inspection and therefore determined to proceed in his absence.

The inspection

- 6 The tribunal inspected the property on 1 April 2026 at 10am. The weather was cloudy and dry. The Tenant, Mr Ashiq, permitted access. Neither the Landlord nor the Third Party Applicant were present or represented.
- 7 The application states the property address as 11/2 Smiths Place. Upon attendance at the building, the tribunal was unable to find 11/2. The tribunal subsequently confirmed with the tenant that the correct address for the property is 11(1F1) Smiths Place and determined to amend the application accordingly.
- 8 The property is situated in a cul-de-sac off Leith Walk in Edinburgh. It is on the first floor of a three storey building with a basement. There are three other

flatted properties in the building, all of which are presently unoccupied according to the Tenant. The building is a traditional sandstone tenement built in the early 19th century. It is category B listed, located in the Leith conservation area.

- 9 The property is a one bedroom flat with a large living room to the front, and a bedroom, kitchen and bathroom to the rear. Access to the property is by external steps to the front door which leads to a communal hall where the three upper floor flats are located via stairs on each floor. The basement flat has a main door entry.
- 10 The tribunal commenced the inspection in the living room. The tribunal observed a battery operated smoke detector which the Tenant advised had been installed by the Scottish Fire and Rescue Service. A wire could be seen protruding from the ceiling near the smoke detector.
- 11 In the hall, the tribunal again observed a battery-operated smoke detector on the ceiling along with a protruding wire. The electrical consumer unit was dated and did not conform to current standards.
- 12 The tribunal inspected the bathroom. The wallpaper was peeling and an exposed ceiling light was hanging dangerously low. There was evidence of historic water penetration from the flat above. A section of the ceiling had been cut and temporarily replaced. The sealant around the bath was covered in mould and peeling in places. Water could be seen pooling on the floor.
- 13 The tribunal inspected the kitchen. The gas boiler was located on the wall next to the window and appeared dated. There did not appear to be any carbon monoxide detector. There were cracked and missing panes in the window which would present a danger to occupants if opened. Scorch marks were observed on the wall behind the gas hob and evidence of historic water penetration could be seen on the walls and ceiling. A smoke and heat detector was located on the ceiling but was covered in polythene. There was no door to the kitchen, instead it was obscured by a curtain.
- 14 Externally it was noted that the front steps were uneven and heavily weathered, and the iron railings were defective and not fit for purpose. There was lighting in the communal hall but this did not appear to be functioning at the time of the inspection.
- 15 Mr Ashiq confirmed that he would be unable to attend the hearing. He confirmed that he had been a tenant of the property for approximately four years. He confirmed that the appliances in the kitchen had been provided by the Landlord.
- 16 Photographs were taken during the inspection and a schedule is appended to this decision.

The hearing

- 17 The hearing was scheduled to take place on 1 April 2026 at 11.30am within George House, Edinburgh. There was no appearance by any of the parties. The tribunal was satisfied they had been given proper notice of the hearing. The tribunal therefore determined to proceed to a decision in the absence of a hearing under Rule 18 of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure 2017.

Findings in fact

- 18 The Landlord and the Tenant entered into a private residential tenancy agreement for the property, which commenced approximately four years ago.
- 19 The Third Party Applicant notified the Landlord of the works required prior to making this application to the Tribunal.
- 20 The property is in poor decorative order throughout and in need of significant upgrading.
- 21 The rear kitchen window is broken and not in a reasonable state of repair. The condition of the window presents a dangerous hazard to the occupants.
- 22 The sealing to the bath is peeling and not fit for purpose. There is no shower screen over the bath to service the shower. The light fitting in the bathroom is unprotected and hanging loose, presenting a danger to the occupants.
- 23 There is no evidence of carbon monoxide detection in the kitchen where the gas boiler is located.
- 24 The electrical installations within the property are outdated. They are clearly not in a reasonable state of repair and in proper working order, and, in the case of the bathroom, pose a danger to occupants.
- 25 The Landlord provided various kitchen appliances under the terms of the tenancy. There is no evidence that the appliances have been PAT tested.
- 26 The property has interlinked battery powered smoke and heat detectors. It cannot be ascertained within the limitations of the inspection that these are compliant with current statutory requirements. The heat detector in the kitchen is covered in polythene, suggesting it is not currently operational.
- 27 There is no evidence of an up to date GSC. There is no evidence of an up to date EICR. It cannot therefore be ascertained that the gas and electrical installations are in a reasonable state of repair and in proper working order.
- 28 The bedroom door handle is in a reasonable state of repair.
- 29 The kitchen has no door and is accessed through a curtain.

Reasons for Decision

- 30 The tribunal determined the application having regard to the terms of the application, the findings from the inspection and the written representations from the parties. The tribunal was satisfied having regard to all of the available evidence that there was sufficient information upon which to reach a fair determination of the application.
- 31 Section 14(1) of the 2006 Act states “*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.*”
- 32 In terms of Section 14(3) of the 2006 Act “*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*”. The tribunal was satisfied, having had sight of the correspondence between the Third Party Applicant and the Landlord which preceded the raising of the application, that the Third Party Applicant notified the Landlord of the work required prior to making this application to the Tribunal.
- 33 The tribunal therefore considered whether the Landlord has complied with the duties under section 14(1)(b) of the Act. Based on the findings from the inspection as reflected in the tribunal’s findings in fact, the tribunal determined that the property does not comply with the Repairing Standard. There was no contradictory evidence before the tribunal and the Landlord had not sought to dispute that the works were required, only that there had been delays in carrying out the works for various reasons.
- 34 With regard to the installation of a fire door to the kitchen, the tribunal determined that, whilst this would provide additional protection to the occupants in the event of fire, no argument had been made that Landlord is obliged to provide this in terms of their duties under section 14(1)(b) of the Act. The tribunal did not consider it could include the requirement for a fire door as part of the works required by the RSEO.
- 35 The tribunal therefore determined that the Landlord had failed to comply with the duties under section 14(1)(b) for the above reasons and in terms of the following provisions of the Act:
- (i) In respect of 13(1)(b), 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.
 - (ii) In respect of 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 not in a reasonable state of repair and in proper working order;

- (iii) In respect of 13(1)(d), any fixtures, fittings and appliances provided by the Landlord under the tenancy are not in a reasonable state of repair and in proper working order.
 - (iv) In terms of section 13(1)(h) the property does not meet the tolerable standard.
- 36 The Act states that where a tribunal decide that a landlord has failed to comply with their duty in that respect, the tribunal “*must by order require the landlord to carry out such work as is necessary for the purpose of ensuring that the house concerned meets the repairing standard*”. The tribunal accordingly determined to make a Repairing Standard Enforcement Order as required in terms of Section 24(2) of the Act. The tribunal further determined that an appropriate timescale for the works to be carried out is one month.
- 37 The decision of the tribunal was unanimous.
- 38 As an observation, the tribunal had significant concerns about the current condition of the property. Whilst the application was restricted to those items mentioned above, the extent of the work required far exceeds the matters complained of. Of particular concern were the scorch marks to the wall behind the cooker being evidence of a lack of fire protection in the kitchen which poses a significant risk to the occupants. The tribunal would remind the Landlord that the property is occupied by the Tenants and their four young children. The tribunal would expect the Landlord to carry out a full inspection of the property and address all outstanding defects to ensure the property is fully compliant with the Repairing Standard.

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.

Where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or 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 determined.

R O'Hare

14 April 2026

Legal Member/Chair

Date

Photographs taken during the inspection of 11 (1F1) Smiths Place, Edinburgh EH6 8NT
Chamber reference number FTS/HPC/RT/25/2115



Front



Kitchen window and boiler

Photographs taken during the inspection of 11 (1F1) Smiths Place, Edinburgh EH6 8NT
Chamber reference number FTS/HPC/RT/25/2115



Scorch mark behind the cooker hob



Electric consumer unit

Photographs taken during the inspection of 11 (1F1) Smiths Place, Edinburgh EH6 8NT
Chamber reference number FTS/HPC/RT/25/2115



Light fitting in the bathroom

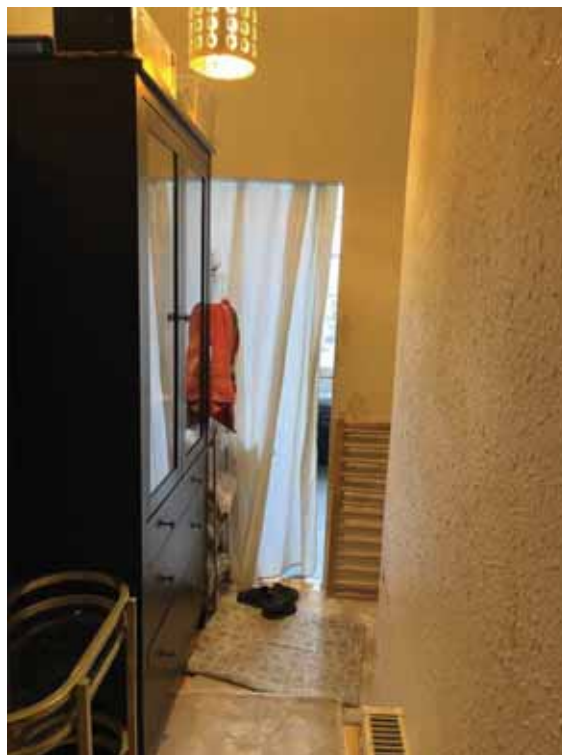


Bath

Photographs taken during the inspection of 11 (1F1) Smiths Place, Edinburgh EH6 8NT
Chamber reference number FTS/HPC/RT/25/2115



Heat detector in the kitchen



Access to the kitchen

Photographs taken during the inspection of 11 (1F1) Smiths Place, Edinburgh EH6 8NT
Chamber reference number FTS/HPC/RT/25/2115



Steps to the entrance door



Broken rail

