

# Housing and Property Chamber

## First-tier Tribunal for Scotland

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

**Statement of Decision: Housing (Scotland) Act 2006 Section 24(1)**

**Chamber Ref: FTS/HPC/RP/25/0265**

**Title Number: FFFE98367**

**Re: 5 Southfield, Fife, Falkland, KY15 7AS  
("the House")**

**Mr. Andrew Maxwell, 12 Liqueorstane, Cupar, Falkland KY15 7DQ  
("the landlord")**

**Tribunal Members:**

**Susan Christie (Legal Member)**

**Sara Hesp (Ordinary/Surveyor Member)**

**Decision**

**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 has complied with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 ("the Act") in relation to the House, determined that the Landlord has not complied with the duty imposed by Section 14(1)(b) of the Act. The tribunal accordingly made a Repairing Standard Enforcement Order ("RSEO") as required by Section 24(2) of the Act.**

**Background**

1. The former tenant applied to the Tribunal in terms of Section 22(1) of the Housing (Scotland) Act 2006, seeking an Order against the landlord on the basis that he had failed to comply with the duties imposed by Section 14(1)(b) of the Act.
2. The application stated that the tenant considered that the landlord had failed to meet the repairing standard in relation to the House. In particular, the Landlord has failed to ensure that:

- (1) The structure and exterior of the House (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order, in terms of Section 13(1) (b) of the 2006 Act.
  - (2) 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, in terms of Section 13(1) (c) of the 2006 Act. This included having regard to guidance issued by the Scottish Ministers in relation to electrical safety standards and equipment for detecting, and for giving warning of, carbon monoxide in a concentration hazardous to health. (Section 13(7) (b) and (g) of the 2006 Act).
  - (3) Any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order, in terms of Section 13(1) (d) of the 2006 Act.
  - (4) The House meets the tolerable standard in terms of Section 13(1) (h) of the 2006 Act.in that:
    - a) It has satisfactory facilities for cooking food within the House
    - b) It is substantially free from rising or penetrating damp.
3. The application and accompanying correspondence from the former tenant particularly specified the following issues:
- a) The log burner was inoperative and had no safety certificate and a history of CO emissions.
  - b) The seal on the oven had perished and the heat was melting the plastic on drawers.
  - c) The fan oven and light were not working.
  - d) The dishwasher supplied with the House had stopped working, was removed and never replaced.
  - e) Mould was apparent in the bathroom and main bedroom.
  - f) The guttering had vegetation growing.
  - g) A slate was off the roof.
  - h) The fridge freezer supplied with the House had a door that would not shut and a mouldy wall.
  - i) The kitchen sink tap was leaking and there was water going into the cupboards under the sink.

4. By Notice of Acceptance of Application, dated 1 July 2025, the Legal Member with delegated powers of the Chamber President intimated that there were no grounds upon which to reject the application and the application was referred to the tribunal for a determination.
5. The Parties were notified by writing that the Tribunal would inspect the House on 3 September 2025; and that an in-person Hearing would take place thereafter. This was postponed at the former tenants request.
6. The Parties were notified by writing that the Tribunal would inspect the House on 7 January 2026 at 10am; and that a teleconference Hearing would take place at 2pm. The Inspection could not take place as the tribunal was not afforded access to the House and no one was present at the House. The tribunal waited beyond 10am to allow for any latecomers. The front living room window was visible from the front door of the House, and it appeared sparsely furnished, if not empty. Neither Party joined the teleconference Hearing at 2pm on 7 January 2026. The tribunal waited beyond the start time to allow for any latecomers to join. The tribunal, having regard to the fact that no-one attended the Inspection to allow for access and the possibility that the House is empty, continued the application consideration for a further Inspection and Hearing.
7. A Direction was issued for further information and documents to be provided to the tribunal. This included reference to the possibility that should voluntary access not be afforded to the tribunal on the next occasion, a warrant authorising member of the tribunal to exercise reasonable force may be sought.
8. The landlord was notified by writing on 27 January 2026, that the Tribunal would inspect the House on 18 March 2026 at 10am; and that a teleconference Hearing would take place at 2pm.
9. The tribunal, having become aware that the tenancy of the former tenant had ended on 1 December 2025, issued a Minute of Continuation to a Determination under Schedule 2 Paragraph 7(3) of the 2006 Act.

### **The Inspection**

10. The Tribunal inspected the House on 14 May 2025 around 10.45am. The start time was delayed as the Landlord had not advised the new tenant the tribunal would be visiting the House and permissions were sought. Access was provided by a new tenant within the House. The Landlord was not present.
11. At the time of the Inspection the weather was dry and sunny.
12. The House was inspected following the list of complaints referred to in the application.

13. A Schedule of Photographs taken during the inspection is attached to this decision.

**The Hearing- 18 March 2026 at 2 pm.**

14. The landlord did not participate in the Hearing, and the tribunal delayed the start time for ten minutes to allow an opportunity for participation. The tribunal was satisfied he had received notice of the Inspection and Hearing and the tribunal therefore proceeded in his absence and discussed the application, the ancillary paperwork, landlord responses and the findings of the inspection. The tribunal thereafter deliberated and proceeded to a determination.

**Findings in Fact**

1. The House is one to which the repairing standard applies.
2. The tenancy between the landlord and the former tenant who originally applied to the tribunal, ended around 1 December 2025.
3. The tribunal, having become aware that the tenancy with the former tenant had ended on 1 December 2025, issued a Minute of Continuation to a Determination under Schedule 2 Paragraph 7(3) of the 2006 Act.
4. There is a new tenant occupying the House under a Private Residential Tenancy, with a start date around 2 March 2026.
5. The Tribunal inspected the House on 18 March 2026 and found that:
  - a) There is a log burner in the House. There is a carbon monoxide detector within the living room and it is sufficient for detecting and giving warning there.
  - b) The seal on the oven in the kitchen is not secured to the oven unit and is not in a reasonable state of repair and in proper working order.
  - c) The fan oven light is not working and is not in a reasonable state of repair and in proper working order.
  - d) The cooker hood extractor fan is fully operative.
  - e) The dishwasher had been replaced, and this had been supplied to the new tenant by the landlord.
  - f) The washing machine within the House had been supplied by the landlord.
  - g) There is no mould in the bathroom and main bedroom.
  - h) The guttering on the House is clear of vegetation.
  - i) There are no obvious tiles missing from the rear roof of the House.

- j) The fridge freezer within the House belongs to the new tenant and has not been supplied by the landlord.
  - k) A new kitchen sink tap has been fitted and it is in a reasonable state of repair and proper working order.
  - l) There is no evidence of water leaks or damage under the kitchen sink. It was noted that plyboards had been fitted at the rear of the base unit and that appeared to be new with no water stains. Damp meter readings taken in this area were normal.
  - m) There is a gas Worcester boiler in the House within the kitchen area. There is no carbon monoxide detector near to it.
  - n) There are sufficient smoke and heat detectors within the House that are operative and interlinked.
6. The tribunal had been provided with a satisfactory Report to satisfy it that the log burner had been tested, and no issues were found in relation to its operation, a smoke test on the chimney/flue; and passed a carbon monoxide test.
  7. The tribunal had been provided with a Gas Safety Certificate for the House dated 13 September 2024.
  8. The tribunal had been provided with a Portable Appliance Test Certificate dated 4 October 2024 from KF Electrical, which was carried out before the current tenancy over the House. It covered the washing machine and former fridge freezer only.
  9. No current satisfactory Electrical Installation Condition Report (EICR), including Portable Appliance Testing (PAT), prepared by a suitably qualified and registered electrician had been provided to the tribunal for inspection.

### **Reasons for decision**

1. The Landlord did not participate in the hearing. The tribunal was satisfied that he had received notice of the inspection and hearing as an intimation letter had been sent to him on 27 January 2026 by e mail and signed for post and a signature given. The tribunal therefore proceeded in the Parties absence to a determination and considered the application, the ancillary paperwork and landlord responses, the Direction responses and paperwork given, and the findings of the inspection.
2. The Tribunal determined that there was sufficient information available by the application terms of reference, the written information given, including documentation received in response to the Direction, and the findings of the inspection for it to make a fair determination of the application.

3. The tribunal was not given the benefit of the participation of the landlord at the Hearing who might have provided further information he wished the tribunal to consider.
4. 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.” 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”. Section 22(3) of the 2006 Act states that an application can only be made if the person making the application has notified the landlord that work requires to be carried out for the purpose of complying with the repairing standard. The Tribunal is satisfied that the former tenant, and Fife Council Protective Services on behalf of the former tenant, notified the landlord of the repairs issues at the House prior to lodging the application.
5. The tribunal considered paragraph 7 of Schedule 2 to the Act. It states that a tenant may withdraw an application at any time, and the tenant is to be treated as having withdrawn the application if the tenancy concerned is lawfully terminated (Paragraph 7(1)). The tribunal issued a Minute of Continuation to a Determination and proceeded to inspect the House.
6. The Tribunal’s decision was informed by the findings of the Inspection, as well as the documentation before it.
  - a) From inspection the tribunal determined:
  - b) There is a log burner in the House. There is a carbon monoxide detector within the living room and it is sufficient for detecting and giving warning there.
  - c) The seal on the oven in the kitchen is not secured to the oven unit and is not in a reasonable state of repair and in proper working order.
  - d) The fan oven light is not working and is not in a reasonable state of repair and in proper working order.
  - e) The cooker hood extractor fan is fully operative.
  - f) The dishwasher had been replaced, and this had been supplied to the new tenant by the landlord.
  - g) The washing machine within the House had been supplied by the landlord.
  - h) There is no mould in the bathroom and main bedroom.
  - i) The guttering on the House is clear of vegetation.

- j) There are no obvious tiles missing from the rear roof of the House.
  - k) The fridge freezer within the House belongs to the new tenant and has not been supplied by the landlord.
  - l) A new kitchen sink tap has been fitted, and it is in a reasonable state of repair and proper working order.
  - m) There is no evidence of water leaks or damage under the kitchen sink. It was noted that plyboards had been fitted and that appeared to be new with no water stains. Damp meter readings taken in this area were normal.
  - n) There is a gas Worcester boiler in the House within the kitchen area. There is no carbon monoxide detector near to it.
  - o) There are sufficient smoke alarms within the House that are operative and interlinked.
7. No current satisfactory Electrical Installation Condition Report (EICR), and Portable Appliance Testing (PAT), prepared by a suitably qualified and registered electrician over the House, had been provided to the tribunal for inspection. An EICR and PAT must be completed accurately by a skilled person competent in such work which is defined in BS7671 and Regulation 16 of the Electricity at Work Regulations 1989 requires persons to be competent to prevent danger and injury. This means a skilled person must be employed by a company or be a sole trader or self-employed individual that or who is a member of an accredited registration scheme operated by a recognised body, or an individual who is able to satisfactorily complete a checklist provided in the Repairing Standard: statutory guidance for private landlords. Accredited registration schemes mean those operated by the SELECT (Electrical Contractors' Association of Scotland), NICEIC, or NAPIT (the National Association of Professional Inspectors and Testers). The tribunal having made enquiry with such bodies could find no record of the company or person who completed the EICR and PAT Certificate being a member of any of them. Nor has the tribunal been provided with a checklist for the electrician concerned. Nor has the electrician concerned been shown to have successfully completed an appropriate assessed PAT training qualification.
8. A carbon monoxide detector must be fitted in all rooms where there is a fixed combustion appliance such as a boiler. This is a requirement of the tolerable standard. There was no such detector near to the gas boiler in the House.
9. All appliances provided by the landlord under the tenancy require to be in a reasonable state of repair and in proper working order. The oven seal is not secure, and the interior light is inoperable. This makes those

parts of the oven not to be in a reasonable state of repair and in proper working order.

10. The tribunal observes that the items supplied to the new tenant under her tenancy of the washing machine, the *in-situ* dishwasher and oven fall within the repairing standard obligations.
11. The tribunal is satisfied that the landlord has failed to comply with the repairing standard in relation to the landlord having failed to ensure that:
  - a) In respect of there being no current satisfactory Electrical Installation Condition Report (EICR), and Portable Appliance Testing (PAT), prepared by a suitably qualified and registered electrician over the House: 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 heating water are in a reasonable state of repair and in proper working order, in terms of Section 13(1) (c) of the 2006 Act
  - b) In respect of the oven seal and oven light: Any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order, in terms of Section 13(1) (d) of the 2006 Act.
  - c) The House meets the tolerable standard. This includes the following: adequate carbon monoxide alarms, in terms of Section 13(1) (h) of the 2006 Act.
12. The Tribunal concludes that to the extent set out above, the landlord has failed to comply with the repairing standard as set out in the Act. The Act states that where a tribunal decides 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.”
13. The Tribunal determined that the landlord has failed to comply with the duty imposed by Section 14(1)(b) of the 2006 Act under Sections 13 (c)(d) and (h), and proceeded to make a repairing standard enforcement order (RESO) to require the landlord to rectify the identified defects as follows:
  - 1) Repair or replace the seal on the oven in the kitchen of the House so that it is secure and is in a reasonable state of repair and in proper working order.
  - 2) Repair or replace the oven light and/or bulb so that it and is in a reasonable state of repair and in proper working order.
  - 3) Instruct a suitably qualified SELECT, NICEIC or NAPIT registered electrician to carry out a certified electrical inspection of the entire

electrical installation of the House and all electrical appliances and equipment supplied by the landlord and carry out all necessary works to rectify any identified C1 and C2 categorised areas. Thereafter to provide the First-tier Tribunal for Scotland (Housing and Property Chamber) with a current satisfactory Electrical Installation Condition Report (EICR), and a Portable Appliance Testing (PAT) Certificate, prepared by a suitably qualified SELECT, NICEIC or NAPIT registered electrician

- 4) Install an adequate carbon monoxide detector in the kitchen of the House near to the gas boiler in compliance with current Scottish Government Guidance.

14. The decision of the Tribunal is unanimous.

### **Right of Appeal.**

**A Landlord, Tenant or Third-Party applicant 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.**

In terms of Section 63 of the Act, 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.

# S Christie

Susan Christie, Legal Member

18 March 2026