

Housing and Property Chamber First-tier Tribunal for Scotland



Statement of Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber)

(Hereinafter referred to as “the Tribunal”)

Under Section 24(1) of the Housing (Scotland) Act 2006 (“the Act”)

Case Reference number: FTS/HPC/RP/25/3688

Re: 46 Sandyknowes Road, Cumbernauld G67 2PG (“the house”)

Land Register Title No: DMB49427

Ms Avril Cairnie, formerly residing at 46 Sandyknowes Road, Cumbernauld G67 2PG (“the former tenant”)

Mrs Oluwakemi Awotunde, 139 Roundtable Road, Bromley BR1 5LF (“the landlord”)

Tribunal Members – Sarah O’Neill (Legal Member) and Nick Allan (Ordinary (Surveyor)) Member

Decision

The tribunal, having made such enquiries as it saw fit for the purposes of determining whether the landlord has complied with the duty imposed on him by Section 14 (1) (b) of the Housing (Scotland) Act 2006 (“the Act”) in relation to the house, and taking account of all the available evidence, determines that the landlord has failed to comply with the said duty. The tribunal therefore issues a Repairing Standard Enforcement Order. The tribunal’s decision is unanimous.

Background

1. By application received on 27 August 2025, the former tenant applied to the tribunal for a determination that the landlord had failed to comply with her duty under Section 14(1) of the Act.
2. In her application, the former tenant stated that she believed the landlord had failed to comply with her duty to ensure that the house met the repairing

standard as set out in section 13(1) (a), (b) and (h) of the Act. Her application stated that the landlord had failed to ensure that:

- the house is wind and watertight and in all other respects reasonably fit for human habitation
- 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
- the house meets the tolerable standard, in the following respects:
 - it is substantially free of rising or penetrating damp
 - it has satisfactory thermal insulation
 - it is structurally stable

3. The former tenant included the following complaints in her application form:
 1. There are extensive issues with the back wall, which has allowed water into the property.
 2. The windows have condensation in the middle of the glass panes, as well as wind coming through them and screeching.
4. Following a request from the tribunal administration, further information regarding notification of the repairs was received from the former tenant on 2 and 5 September 2025.
5. On 1 October 2025, a notice of acceptance of the application was issued by a Convener with delegated powers of the Chamber President. An inspection and hearing were arranged for 26 March 2026.
6. The parties were invited to submit written representations no later than 11 March 2026. On 23 February 2026, an email was received from Accommodation Lettings, the landlord's former representative, advising that the former tenant had vacated the property on 14 December 2025. On the same dates, a further email was received from Accommodation Lettings, advising that it would no longer be managing the property.
7. An email was received from the landlord on 3 March 2026, providing an update on the property and requesting a postponement of the inspection and hearing to allow her time to organise major works and refurbish the property.
8. On 9 March 2026, the former tenant confirmed that she had vacated the property. On the same date, the tribunal issued a minute of continuation in terms of Schedule 2 Paragraph 7(3) of the Act confirming its intention to continue with the application. This was on the basis that the application should be determined on public interest grounds due to the nature of the alleged

repairs issues and the potential effects for any future tenants/occupiers if the allegations were substantiated.

9. On 12 March 2026, the tribunal refused the landlord's postponement request, as it did not consider that there was good reason why a postponement was necessary.

The inspection

10. The tribunal inspected the house on the morning of 26 March 2026. The weather conditions at the time of the tribunal's inspection were cold and overcast. The landlord was present and allowed the tribunal access for the inspection.
11. Photographs were taken during the inspection. These are attached as a schedule to this decision.

The house

12. The house is a three-storey end-terraced former Cumbernauld Development Corporation house which is around 50 years old. The house comprises four bedrooms, living room, kitchen, bathroom, downstairs toilet and hallway.

The hearing

13. Following the inspection, the tribunal held a hearing at Glasgow Tribunals Centre, 20 York Street, Glasgow G2 8GT.
14. The landlord was present at the hearing and represented herself.

The evidence

15. The evidence before the tribunal consisted of:
 - The application form submitted by the tenant.
 - Private residential tenancy agreement between the parties, which commenced on 17 May 2025.
 - Notification emails dated between 1 June and 21 July 2025 from the former tenant to the landlord's representative relating to the outstanding repairs issues, together with photographs of the property submitted by the former tenant.
 - Land certificate (title no: DMB49427) relating to the house.
 - Landlord registration details relating to the house.
 - Written representations received from the landlord on 6 March 2026.
 - The tribunal's inspection of the house.

- The landlord's oral representations at the hearing.

Summary of the issues

16. The issue to be determined was whether the house meets the repairing standard as set out in Section 13 of the Act, and whether the landlord has complied with the duty imposed by section 14 (1) (b).

Findings in fact

17. The landlord is the owner of the house.
18. The landlord is the registered landlord for the house.
19. The parties entered into a private residential tenancy agreement relating to the house which commenced on 17 May 2025.
20. The tenant notified the landlord of the required repairs on various occasions between 1 June and 21 July 2025.
21. At its inspection, the tribunal carefully checked the items which were the subject of the complaint. The tribunal observed the following:
 - a) Extremely high dampness readings were recorded in the living room on the first floor along the gable wall. Dampness and mould were also detected elsewhere within this room. (Photo 17 refers)
 - b) High dampness readings were also recorded on the top floor near the junction of the rear elevation and the party wall with the adjoining property. (Photo 16 refers)
 - c) The roof verge on the gable wall has exposed holes between the roof tiles and brickwork creating a potential access point for rain penetration. Crude mortar repairs were observed to the ridge and verge at this location. (Photos 23 +24 refer)
 - d) There was only one downpipe serving the whole terrace of properties of which the house is part. The adjoining terraces had several downpipes.
 - e) There was staining on the roughcast to the rear/gable wall section adjacent to the satellite dish. (Photo 22 refers)
 - f) There was a crack in the roughcast behind the satellite dish on the back wall of the house (Photo 21).
 - g) Exposed plywood was observed on the rear elevation of the house where the original wall cladding has been removed and not been replaced (photos 8 + 9 refer).

- h) The joints between the timber cladding and render at the rear of the house are not adequately sealed (For example, photos 10 + 11 refer)
- i) A number of the windows in the house were fogged with condensation between the panes, including the windows in the kitchen, living room and front and rear upper bedrooms (Photos 2-7 refer).
- j) No evidence of draughts or wind coming through any of the windows throughout the house was observed.
- k) There was a heat sensor in the kitchen and smoke alarms in the living room, hall and top floor landing (Photos 18-20). These were tested and all are interconnected in accordance with Scottish Government guidelines. There was no smoke alarm on the first-floor landing.

Reasons for decision

- 22. In making its decision, the tribunal carefully considered all of the evidence before it. In doing so, it applied the civil burden of proof, which is the balance of probabilities.
- 23. The landlord told the tribunal that she had bought the house in January 2025. She had known that it was not in a good state of repair. Her former letting had engaged various tradespeople on her behalf to assess what repairs were required. She had paid for various repairs to be carried out before the house was rented to the former tenant. She had been overseas for a period and had not been aware of the outstanding repairs issues complained about by the former tenant until she was made aware of the tribunal application.
- 24. The tribunal considered each of the former tenant's outstanding complaints, as set out below.

1. Issues with the back wall

- 25. At its inspection, the tribunal took dampness readings at various locations throughout the house. Extremely high dampness readings were recorded in the living room on the first-floor along the gable wall. High dampness readings were also taken on the top floor near the junction of the rear elevation and the party wall with the adjoining property.
- 26. The tribunal also observed during its inspection that there was only one downpipe remaining to serve the whole terrace of properties of which the house is part. The adjoining terraces have several more downpipes. There was staining on the roughcast to the gable wall adjacent to the rear elevation of the house. There was a crack in the roughcast behind the satellite dish on the back wall of the house.

27. The tribunal also observed that the roof verge on the gable wall has exposed holes between the roof tiles and brickwork, creating a potential access point for rain penetration. Crude mortar repairs were also observed to the ridge and verge at this location.
28. Exposed plywood was also observed on the rear elevation of the house where the original wall cladding has been removed and not been replaced. The joints between the timber cladding and render at the rear of the house are not adequately sealed.
29. The landlord told the tribunal that she was aware that there were dampness issues within the property. She was in the process of instructing a contractor to carry out works to address this.
30. The tribunal noted that whatever was causing the serious and embedded dampness which had been identified at its inspection appears to have been an issue for some time. The tribunal commented that cosmetic repairs to the house internally would not be a solution to the ongoing dampness issues observed.
31. The tribunal determined that the house was not wind and watertight and in all other respects reasonably fit for human habitation

2. The windows

32. The tribunal observed during its inspection that a number of the windows in the house were fogged with condensation between the panes. The landlord acknowledged at the hearing that this was the case. This indicates that the sealed glazed units have failed. The affected windows include those in the kitchen, living room and front and rear upper bedrooms.
33. No evidence of draughts or wind coming through any of the windows throughout the house was observed at the inspection, although it was not a windy day.
34. The tribunal determined that a number of the windows in the house were not in a reasonable state of repair and in proper working order.

3. Tolerable standard complaints

35. The former tenant had also complained that the house does not meet the tolerable standard in the following respects:

- it is substantially free of rising or penetrating damp
- it has satisfactory thermal insulation

-it is structurally stable

35. It is clear from the tribunal's findings as set out above that the house does not meet the tolerable standard in the respect that it is not substantially free of rising or penetrating damp.
36. In terms of thermal insulation, the tribunal found that the house is very damp in places and that many of the double glazed window units have failed, which will be contributing to significant heat loss.
37. The tribunal found no evidence to suggest that the house is not structurally stable.

Observation by the tribunal

38. While no complaints with regard to the provision of smoke alarms within the house were included in the application, the tribunal observed during its inspection that there was no smoke alarm on the first-floor landing. This does not meet the current requirements set out in [Scottish Government guidance on fire detection in private rented properties](#). The tribunal is required to have regard to this guidance in determining whether the house meets the repairing standard.
39. The guidance states that in order to comply with the repairing standard there should be at least:
 - one functioning smoke alarm in the room which is frequently used by the occupants for general daytime living purposes (normally the living room/lounge),
 - one functioning smoke alarm in every circulation space on each storey, such as hallways and landings, or in main room if no landing in upper storey
 - one heat alarm in every kitchen,
 - all alarms should be ceiling mounted, and
 - all alarms should be interlinked.

40. The tribunal therefore observes that the landlord should consider installing a functioning smoke alarm on the landing of the first floor of the house.

Summary of decision

41. On the basis of all the evidence before it, the tribunal determined that the landlord had failed to comply with the duty imposed by section 14(1) (b) of the Act. In particular, the landlord has failed to ensure that the house meets

the repairing standard in that: 1) the house is not wind and watertight and in all other respects reasonably fit for human habitation, 2) the structure and exterior of the house is not in a reasonable state of repair and in proper working order and 3) the house does not meet the tolerable standard

42. The tribunal therefore makes a Repairing Standard Enforcement Order (RSEO) as required by section 24 (2) of the Act.

Rights of Appeal

43. 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.

44. 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 O'Neil

Signed

Sarah O'Neill, Chairperson

Date 20 April 2026