

Housing and Property Chamber

First-tier Tribunal for Scotland



First-tier tribunal for Scotland (Housing and Property Chamber)

STATEMENT OF DECISION: Housing (Scotland) Act 2006 Section 24

Chamber Ref: FTS/HPC/RP/25/0122

Property: Westmost First Floor Flat, 40 Whitehall Place, Aberdeen, AB25 2PB (“the Property”)

The Parties:-

Miss Gloria Ishiwu, formerly residing at 40 Whitehall Place, Aberdeen, AB25 2PB (“the Tenant”)

Lewis Sim Duncan and Lewis Duncan, both c/o Caroline Walker Property Leasing, 1-3 Albyn Terrace, Aberdeen (“the Landlord”)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”), determined that the Landlord had complied with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2000 in respect that the Property met the repairing standard set out in Section 13 of the said Act.

The Decision was unanimous.

The Tribunal consisted of Mr E K Miller, Chair and Legal Member and Mr D Godfrey, Ordinary Member.

Background

1. By Application dated 8 January 2025, the Tenant applied to the Tribunal for a determination of whether the Landlord had failed to comply with the duties imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 (“the Act”).
2. The application by the Tenant stated that the Tenant considered that the Landlord had failed to comply with the duty to ensure that the Property met the repairing standard and in particular that the Landlord had failed to ensure that:-
 - a. The house is wind and watertight and in all other respects reasonably fit for human habitation;

- b. 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;
 - c. The installations in the house for 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.
3. By letter dated 9 September 2025 the Tribunal intimated a decision to refer the application under Section 22(1) of the Act for determination.
4. Following service of a Notice of Referral, the Tenant made written representations on 15 September and the Landlord on 24 October and the
5. The Tribunal was scheduled to inspect the Property and hold a hearing on 24 October 2025. In advance of the hearing the Tenant indicated that she had removed from the Property.
6. Where a tenancy of a property has been terminated under Schedule 2, Paragraph 7(1) of the Act, a tenant is to be treated as having withdrawn the application under Section 22(1) of the Act. However, in terms of Schedule 2, Paragraph 7(3) of the Act, the Tribunal is entitled to determine that it wishes to continue with the application. The Tribunal considered the Tenant's application. The Tenant had alleged that the Property was suffering from mould and had a vermin infestation. Given that there were potential health and safety issues surrounding the original complaint the Tribunal determined to exercise its discretion and wished to continue with the application.
7. The Tribunal inspected the Property on the morning of 11 February 2026. Mr Lewis Duncan Snr of the Landlord was present during the inspection.
8. Following the inspection of the Property the Tribunal held a hearing at Aberdeen Sheriff Court on 11 February 2026. Neither party was present or represented.
9. The Tenant had submitted in their application that there were a number of issues with the Property. Firstly that there was damp and mould within the Property. Secondly that there had been a vermin infestation in the Property and that rats had been coming in to the Property. The Tenant complained that the boiler was not in proper working order and also that the shower screen and fixtures in the bathroom were loose. Other than the allegations contained in her application, there was no additional evidence presented by the Tenant such as pictorial or video evidence to substantiate the condition of the Property during the period of her occupation.

10. The Landlord, via Mr Duncan at the inspection, indicated that they were not aware that any repairs had been required. They had had difficulties engaging with the Tenant and in the end she had simply departed from the Property and had not even locked the Premises upon leaving.

Summary of the Issues

11. The issues to be determined are:

- a. Whether the Property was suffering from mould or damp;
- b. Whether the shower screen in the Property was in proper working order;
- c. Whether the Property was properly wind and watertight and was suffering from vermin infestation; and
- d. Whether the boiler at the Property was in proper working order.

Findings of Fact

12. The Tribunal found the following facts to be established:-

- a. There was no mould, damp or condensation in the Property and the Property appeared to be properly wind and watertight and otherwise compliant with the repairing standard;
- b. The shower screen was properly affixed and in proper working order;
- c. There was no evidence of any vermin infestation in the Property at the date of the inspection;
- d. A new replacement boiler had been installed in the Property since the Tenant had left the Property

Reasons for the Decision

13. The Tribunal based its decision based on the evidence before it during the inspection. The Tenant had left the Property and the Landlord was in the course of refurbishing the Property. The Tribunal inspected the areas where the Tenant alleged that damp and mould had been present. The Tribunal was unable to identify any such areas existing as at the date of the inspection. The Property appeared to be properly wind and watertight and not subject to any water ingress.

14. The Tribunal inspected the general environment of the Property. There was no evidence of any vermin infestation and no obvious areas where vermin could gain access to the Property.

15. The Tribunal inspected the bathroom at the Property. The shower screen was properly affixed and appeared to be in proper working order.
16. The Tribunal noted that the Landlord was in the process of refurbishing the Property generally and the kitchen in particular. A new gas fired boiler had been installed.
17. Whilst the Tribunal could not determine the condition of the Property during the Tenant's occupation, as at the date of inspection the Property met the repairing standard. Accordingly, the Tribunal determined that the duty to comply with the repairing standard was being met and no further action was required.
18. A copy of the inspection report carried out on 11 February is annexed hereto for information

Right of Appeal

19. 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.

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.

Effect of section 63

20. Where such an appeal is made, the effect of the decision and of the order is suspended until the appeal is abandoned or finally determined, and where the appeal is abandoned or finally determined by confirming the decision, the decision and the order will be treated as having effect from the day on which the appeal is abandoned or so determined.

Ewan Miller

Signed

Date 29th April 2026

Chairperson

Housing and Property Chamber

First-tier Tribunal for Scotland



Pre-hearing inspection summary and schedule of photographs



Property: FLAT 1/2, 40 WHITEHALL PLACE, ABERDEEN AB25 2PB

Ref No: FTS/HPC/RP/25/0122

Tribunal members: Mr E Miller & Mr D Godfrey

Purpose of inspection

The purpose of the inspection is to prepare a photographic record of the condition of the property, specifically as it relates to the items raised in the application and subsequent correspondence and any issues arising there from.

Access

The above Tribunal Members attended the property at 10:00 on 11th February 2026.

The original Tenant, Ms Ishiwu Adobi no longer resides in the property and access was provided by the Landlord, Mr Lewis Duncan. The property is presently unoccupied.

David Godfrey MRICS
Ordinary (Surveyor) Member
First-tier Tribunal for Scotland
11/02/2026

Appendix 1

Schedule of photographs taken during the inspection on 11/02/2026.



General view of Living Room.



General view of Shower Room.



General view of Bedroom.



General view of Kitchen and replacement central heating boiler.