



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/25/2330

Re: Property at Flat 5, 1 Granitehill Terrace, Persley, Aberdeen, AB22 8AT (“the Property”)

The Parties:

Miss Christianne Fahey (“the Tenant”)

The Accountant in Bankruptcy as trustee in the sequestrated estate of Graham Stephen, c/o Dunedin Advisory Limited, Itek House, 1 Newark Road South, Glenrothes, Fife, KY7 4NS (“the Landlord”)

Aberdeen City Council, Private Sector Housing, Marischal College, Business Hub 11, Second Floor West, Broad Street, Aberdeen, AB10 1AB (“the Third Party Applicant”)

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 has failed to comply with the repairing standard for the following reasons:-
 - (i) Despite repeated requests from the Third Party Applicant no electrical installation condition report (EICR), gas safety certificate (GSC) or legionella risk assessment (LRA) had been produced by the Landlord.
 - (ii) The Landlord has failed to carry out portable appliance testing (PAT).

- (iii) The property did not have interlinked smoke and heat detection and carbon monoxide detectors.
- 3 The application was referred to a tribunal for a determination and Notice of Referral was served on Mr Graham Stephen, the registered owner of the property, under Schedule 2, Paragraph 1 of the Act. A Direction was issued along with the Notice requiring Mr Stephen to provide the GSC, EICR which should include PAT test certificates, LRA and evidence of interlinked fire detection devices and a heat alarm in the property. The Direction required Mr Stephen to provide the information no later than 21 August 2025.
- 4 Mr Stephen did not respond to the Direction. An inspection and hearing on the application was therefore scheduled to take place on 24 March 2026. The Tribunal gave notice of the inspection and hearing to the parties.
- 5 On 9 February 2026 the Tribunal received a response to the application from the Third Party Applicant confirming that they would attend the hearing. The Third Party Applicant provided written representations with a chronology of the events leading up to the submission of the application.
- 6 The title to the property is in the name of Mr Graham Stephen. On 19 March 2026 the Tribunal received an email from Mr Peter Young of Key Moves, the letting and estate agency arm of Wilson and Duffus Solicitors, on behalf of Mr Graham Stephen. Mr Young explained that Mr Stephen was unwell and had been sequestered. The property was in the process of being repossessed by the mortgage lender. Mr Young confirmed that he had copied the Tribunal's correspondence to Mr Stephen's trustee.
- 7 The Register of Insolvencies confirms that Mr Stephen was sequestered on 29 May 2025 and his trustee is the Accountant in Bankruptcy. Accordingly, the property is now vested in the Accountant in Bankruptcy. The Tribunal therefore determined to substitute the Accountant in Bankruptcy as the Landlord for the purposes of this application under Rule 32 of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure 2017.

The inspection

- 8 The tribunal inspected the property at 10.00am on 24 March 2026. The Tenant was in attendance and permitted access. The Third Party Applicant did not attend and was not represented. The Landlord did not attend and was not represented.
- 9 The property is a top floor flat in a two storey and attic tenement constructed around 1900. The property is in a semi-rural setting just outside the suburb of Bridge of Don, around four miles north west of Aberdeen City centre.

- 10 The outer walls are of solid stone construction and the roof is pitched and slated with a felt covered flat areas over the dormers and rear projection. Space heating is provided by a gas fired central heating system with water filled radiators. The windows are PVC framed and are double glazed.
- 11 The accommodation comprises on the second floor: entrance hallway, lounge, with kitchen off to rear, bathroom with WC, bedroom to front.
- 12 The inspection was restricted to those items within the application paperwork. The inspection commenced in the kitchen. The boiler was not operational. The pressure gauge read zero. The tenant pointed out that externally, the condensate pipe was broken/incomplete and stated that the boiler had not been working since December. No Gas Safety Certificate was available.
- 13 There was a CO alarm mounted next to the boiler. The alarm sounded when the test button was pressed. The installation date had not been completed on the space on the label. The alarm appeared to be of some age, with age related fading and dust and dirt accumulation. The alarm has removable batteries, contrary to current regulations which specify a sealed-for-life alarm.
- 14 Within the kitchen, there was a washing machine, fridge freezer, microwave, kettle and oven/hob. The tenant stated that these were provided as part of the tenancy. No operational checks were undertaken. There were no obvious visible defects. No Portable Appliance Test documentation was available.
- 15 There was a "HiSpec" heat detector affixed to the kitchen ceiling and corresponding smoke alarms in the lounge and hallway; all appeared to have been installed recently. When the kitchen alarm test button was pressed briefly, the alarm sounded. When the test button was pressed for 20 seconds, the alarm in the hallway sounded, but not the alarm in the lounge. When the test button in the lounge was pressed, the alarm sounded, but when pressed for 20 seconds, the hallway alarm sounded but not the kitchen heat alarm. In summary, not all the alarms sounded together during the test.
- 16 The main electrical switchgear is located in the hallway of the flat. There is a modern metal cased consumer unit which incorporates a residual current device. A label affixed to the consumer unit indicated an inspection on 25/04/2025. The cover was missing to the adjacent door bell, which is situated at a high level and is likely to use low voltage mains electric or batteries. There was a loose electrical socket in the hallway. The Electrical Installation Condition Report was not made available to the Tribunal before or during the inspection.
- 17 Within the bedroom, it was noted that the thermostatic radiator valve was on the floor, next to the radiator.
- 18 In relation to the Legionella Risk Assessment (LRA), although the Tribunal carried out a general visual inspection of the water installation, this does not

constitute an LRA. The LRA was not provided to the Tribunal before or during the inspection.

- 19 Photographs were taken during the inspection and these are appended to this decision.

The hearing

- 20 The tribunal held a hearing on 24 March 2026 at 10am by teleconference. Ms Claire Reith appeared on behalf of the Third Party Applicant. She was accompanied by her colleague, Rachel Bevan. The Landlord did not attend and was not represented. The Tenant did not join the call.
- 21 As a preliminary matter, the tribunal explained that Mr Stephen had been sequestered. On the basis that the property now vested in the Accountant in Bankruptcy as Mr Stephen's trustee, they were now the Landlord for the purpose of the application. The tribunal advised that as there had been insufficient time to notify the Landlord of the inspection and hearing, the hearing would be adjourned for the Landlord to be given the opportunity to make representations and attend the hearing.
- 22 Ms Reith advised that the Landlord was aware of the application. She explained that there had been correspondence between the Third Party Applicant and the Landlord on the matter, and that this could be produced if required. The tribunal explained that whilst that may be the case, the Landlord had not been formally notified of the hearing and may be under the impression that they were not a party to the application.
- 23 The hearing was therefore adjourned and rescheduled to take place on 28 April 2026 by teleconference. The Tribunal gave notice of the hearing to the parties.
- 24 The second hearing took place on 28 April 2026 at 10am by teleconference. The Third Party Applicant was represented by Mrs Claire Reith. Mr Peter Young of Wilson and Duffus also joined the call as a representative for Mr Graham Stephen. There was no representation on behalf of the Landlord. The tribunal noted they had been given notice of the hearing and determined to proceed in their absence.
- 25 As a preliminary matter, Mr Young confirmed Mr Stephen's position that he is no longer the Landlord for the purpose of the application as his estate now vests with the Accountant in Bankruptcy. Mr Young remained on the call as an observer with the consent of the tribunal and Mrs Reith.
- 26 Mrs Reith confirmed her agreement with the findings of the tribunal's inspection. All items were still outstanding. She noted there had been some allegations about the Tenant refusing access for repairs, however she pointed out that the Tenant had allowed access for the smoke and heat alarms to be

installed. She asked the tribunal to make a repairing standard enforcement order.

- 27 The tribunal concluded the hearing and determined to issue its decision in writing.

Findings in fact

- 28 Mr Graham Stephen and the Tenant entered into a private residential tenancy agreement in respect of the property, which commenced on 15 December 2022.
- 29 The tenancy between the parties is a private residential tenancy as defined by section 1 of the Private Housing (Tenancies) (Scotland) Act 2016.
- 30 On 29 May 2025 Mr Graham Stephen was sequestered. The Landlord is Mr Stephen's trustee in sequestration.
- 31 There is no valid GSC for the property. The gas boiler is not in proper working order.
- 32 There is no valid EICR for the property.
- 33 The property was let with a fridge, microwave and washing machine. There is no evidence of PAT testing for these appliances.
- 34 There is no LRA for the property.
- 35 The property has smoke and heat detectors. The smoke and heat detectors do not appear to operate correctly in that they do not appear to be interlinked. The carbon monoxide alarm does not comply with guidance in that it has removable batteries.

Reasons for Decision

- 36 The tribunal determined the application having regard to the terms of the application, the written representations from the parties, and the oral evidence and submissions at the hearing. 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.
- 37 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.*"
- 38 The tribunal therefore considered whether the Landlord has complied with the duties under section 14(1)(b) of the Act. Based on its findings in fact the tribunal concluded that they have not. In particular, the Landlord has failed to provide any evidence of the certification for the gas and electrics, and portable

appliance testing, despite repeated requests. The duty to provide said certification is a clear legal requirement and the failure to provide this information is a significant cause of concern. It was evident from the tribunal's inspection that the gas boiler is not operating correctly, thereby leaving the Tenant with no access to heating and hot water. Furthermore, as found by the tribunal during the inspection the smoke and heat detectors do not appear to be operating correctly, placing the Tenant at risk in the event of fire.

39 The tribunal therefore concluded 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)(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;
- (ii) 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.
- (iii) In terms of section 13(1)(h) the property does not meet the tolerable standard in that it does not have an interlinked system of fire and smoke alarms and adequate carbon monoxide alarms and it does not have an adequate piped supply of wholesome water available within the property.

40 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.

41 The decision of the Tribunal was unanimous.

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
or determined.

RUTH O'HARE

28 April 2026

Legal Member/Chair

Date

Housing and Property Chamber First-tier Tribunal for Scotland



Housing (Scotland) Act 2006

Flat 5, 1 Granitehill Terrace, Persley, Aberdeen, AB22 1ATH

Chamber Reference: FTS/HPC/ RT/25/2330

Initial inspection: Schedule of Photographs

Inspection Date: 24/03/2026



Photograph 1 Front (North east elevation).



Photograph 2 Kitchen overview.



Photograph 3 Kitchen : CO Alarm. Installation date blank, removable battery type



Photograph 4 Kitchen: Central heating boiler. Not operational, pressure gauge reading zero.



Photograph 5 Kitchen wall external: Condensate drain pipe section missing.



Photograph 6 Kitchen: Heat alarm and remains of previous installation.



Photograph 7 Lounge: Smoke alarm and remains of previous installation.



Photograph 8 Hallway: Electrical installation.



Photograph 9 Hallway: Loose electrical socket.



Photograph 10 Bedroom: Radiator with detached TRV.



Photograph 11 Rear elevation.