

# Housing and Property Chamber First-tier Tribunal for Scotland

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

**Housing (Scotland) Act 2006 Section 24**

**Chamber Ref: FTS/HPC/RP/25/3070**

**The Property: 16 Belhaven Terrace, Wishaw, North Lanarkshire, ML2 7AY (“The Property”)**

**The Parties:**

**Mr Craig McLuckie 16 Belhaven Terrace, Wishaw, North Lanarkshire, ML2 7AY (“the Applicant”) and**

**Mr Tom Cullen, c/o Shillady’s Estate and Letting Agents, 206 Main Street, Wishaw, ML2 7LU (“the Respondent”) and**

**Shillady’s Estate and Letting Agents, 206 Main Street, Wishaw, ML2 7LU (the Respondent’s Representative”)**

**Tribunal Members:**

**G McWilliams- Legal Member**

**L Charles - Ordinary 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 or not the Landlord has complied with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006, as amended (“the 2006 Act”), in relation to the Property, determined that the Landlord has failed to comply with the duty imposed by Section 14 (1)(b) of the 2006 Act and that a Repairing Standard Enforcement Order (“RSEO”) should be made.**

**Background**

- 1. The Applicant Mr McLuckie applied to the Tribunal, on 12<sup>th</sup> July 2025, in terms of Section 22 of the Housing (Scotland) Act 2006. Mr McLuckie complained that the Landlord has not complied with elements of the Repairing Standard.**

## **Inspection**

2. The Tribunal Members inspected the Property at 10am on 5<sup>th</sup> March 2026. Mr McLuckie was present.
3. A Schedule of Photographs, taken at the Inspection, is attached to and forms part of this Decision.

## **Hearing**

4. Following the Inspection, the Tribunal held a Hearing at the Hamilton Tribunals Venue which proceeded at 11.45am on 5<sup>th</sup> March 2026. The Applicant Mr McLuckie attended as did the Respondent's Representative's Mr A. Shillady.
5. The Tribunal informed Mr McLuckie and Mr Shillady of their visual and damp meter findings at the inspection as follows:
  - i) There is an area of water ingress and dampness on the wall above the left bay window section in the living room. High moisture readings were obtained in that area;
  - ii) The extractor fan in the bathroom is not working.
  - iii) There are areas of mould on walls in the bedroom.
  - iv) Flooring is missing in the living room and bathroom.
6. Mr McLuckie stated that he agreed with Tribunal's above findings. He said that he had been complaining about repair issues for over two years. He said that these issues were adversely affecting his health. He said that he has previously reduced his monthly rental payments because of the issues.
7. Mr Shillady stated that the landlord, Mr Cullen, has health problems and hopes to sell the Property. He said that he, on behalf of Mr Cullen, had been having difficulty gaining access to the Property to have necessary repairs carried out. Mr Shillady stated that roof repairs, above the Property, had been carried out on 31<sup>st</sup> January 2026. He said that Mr Cullen will attend to necessary repairs if he, and contractors, can have access to the Property.
8. Mr McLuckie and Mr Shillady each acknowledged that their communication had been difficult. At the close of the Hearing they agreed that they will liaise with each other with a view to Mr Shillady, and/or contractors, attending at the Property in the period between Saturday 7<sup>th</sup> and Friday 13<sup>th</sup> March when Mr McLuckie is not working.

## **The Repairing Standard**

9. The Repairing Standard is set out in Section 13 (1) of the 2006 Act:

A property (house) meets the Repairing Standard if:-

- (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 the supply of water, gas and electricity and for sanitation, space heating and heating water are in a reasonable state of repair and in proper working order,
- (d) Any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order,
- (e) Any furnishings provided by the landlord under the tenancy are capable of being used safely for the purpose for which they are designed,
- (f) The house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire,
- (g) The house has satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health.
- (h) The house meets the tolerable standard.

### **Findings in Fact**

- 10.** Having considered all of the evidence, and the submissions of Mr McLuckie and Mr Shillady, the Tribunal made the following findings in fact:
- i) There is an area of water ingress and dampness on the wall above the left bay window section in the living room. The Tribunal recorded high moisture readings in that area;
  - ii) The extractor fan in the bathroom is not working.
  - iii) There are areas of mould on walls in the bedroom.
  - iv) Flooring is missing in the living room and bathroom.

### **Decision, Reasons and Repairing Standard Enforcement Order (“RSEO”)**

- 11.** In making their findings in fact the Tribunal, in particular, relied on their visual findings at the Inspection and the damp meter readings which they obtained.
- 12.** Having made their findings in fact, the Tribunal found in law that, at this time, the house is not wind and watertight and in all other respects reasonably fit for human habitation and that an appliance provided by the landlord under the tenancy, the extractor fan in the bathroom, is not in proper working order.
- 13.** Accordingly, the Tribunal decided that the Property does not presently meet the Repairing Standard, specifically in terms of Section 13 (1) (a) and (d) of the 2006 Act.
- 14.** In reaching their decision the Tribunal principally relied on their findings at the Inspection as well as on the statements made by Mr McLuckie and Mr Shillady at the Hearing. Mr McLuckie agreed the Tribunal’s findings at the Inspection. Mr Shillady was not at the Inspection and did not make any statement or submission

at the Hearing to contradict those findings. Mr Shillady said that Mr Cullen is willing to carry out necessary repairs.

**15.** The Tribunal therefore determined that the Landlord Mr Cullen has failed to comply with the duties imposed by Section 14 (l)(b) of the 2006 Act given extent of the repairs that require to be carried out.

**16.** The Tribunal have also decided to make an RSEO, as required by Sections 24 (l) and 24(II) of the 2006 Act, in the following terms:-

- a) The Tribunal now orders the Landlord to carry out such investigations and works as are necessary for the purpose of ensuring that the Property meets the Repairing Standard all in terms of Section 13(1) (a) and (d) of the 2006 Act and that any damage caused by the carrying out of any work in terms of this Order is made good and all necessary redecoration is carried out. Specifically, the Landlord has to:**
- i) carry out appropriate investigations to determine the cause of the water ingress and dampness high on the wall above the left bay window section in the living room; and to carry out such repairs and other works to ensure that the moisture readings in that area are reduced to safe levels and there is no water ingress and/or dampness in that area; and**
  - ii) repair or replace the extractor fan in the bathroom; and**
  - iii) carry out appropriate treatment and eradicate the areas of mould on walls in the bedroom; and**
  - iv) replace missing flooring in the living room and bathroom; and**
  - v) provide appropriate documentation and/or certification confirming the execution of the repairs and works, referred to in points i), ii), iii) and iv) above.**
- b) In view of the nature of the failure to meet the Repairing Standard as defined in the 2006 Act, and the extent of the remedial works which require to be carried out, the Tribunal determines that the RSEO requires to be complied with by 31<sup>st</sup> May 2026.**

**17.** The decision of the Tribunal is unanimous.

### **Right of Appeal**

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.

G McWilliams

**Signed: G McWilliams**

**Tribunal Legal Member**

**Date: 17<sup>th</sup> April 2026**