

# **Housing and Property Chamber**

## **First-tier Tribunal for Scotland**

---



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

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

**DECISION NOTICE**

**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**

**The Property Bureau, 13 Broomknoll Street, Airdrie, ML6 6BN ("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.
2. The Tribunal Members inspected the Property at 10am on 5<sup>th</sup> March 2026 and, following a Hearing which took place later that day, the Tribunal issued a Decision and RSEO on 17<sup>th</sup> April 2026. The Decision and RSEO contained an omission and error regarding a problem with the level of heat produced by a radiator and missing flooring, respectively. Mr McLuckie reported continuing problems in respect of the condition of the Property. In the circumstances the Tribunal decided to re-inspect the Property and hold another Hearing.

### **Re-Inspection**

3. The Tribunal Members re-inspected the Property at 10am on 3<sup>rd</sup> July 2026. The Applicant Mr McLuckie attended as did the Respondent Mr Cullen's son, Mr M Cullen.
4. A Schedule of Photographs, taken at the Re-inspection, is attached to and forms part of this Decision Notice.

### **Hearing**

5. Following the Inspection, the Tribunal held a Hearing at the Hamilton Tribunals' Venue which proceeded at 11.45am on 3<sup>rd</sup> July 2026. Mr McLuckie attended as did Mr M Cullen.
6. Mr McLuckie and Mr M Cullen were aware of the Tribunal's visual and damp meter findings at the Re-inspection as follows:
  - i) There is still 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) There has been further water ingress in the centre of the living room ceiling and it has resulted in a hole in the ceiling in that area.
  - iii) Replacement flooring has been laid in the living room.
  - iv) The living room radiator is warm at the top but cool to touch at the bottom.
  - v) The extractor fan in the bathroom has been replaced and the new fan is working satisfactorily.
  - vi) The areas of mould on walls in the bedroom have been eradicated.
  - vii) Mould remains on the blinds in the bedroom.
  - viii) A section of flooring is still missing in the bedroom.
  - ix) There are no flooring bars at the junctions of the rooms in the Property.

- x) There has been “new” water ingress on the ceiling to the right of the window in the kitchen.

7. Mr McLuckie and Mr M Cullen both agreed with Tribunal’s above findings.
8. Mr McLuckie stated again that he simply wishes the necessary repairs to be carried out. He said again that the repair issues were adversely affecting his health. He stated that his payment of reduced monthly rent, in the sum of £250, since June 2025, had been agreed with the Respondent Mr Cullen. Mr McLuckie stated that he will resume payment of the full monthly rent due, of £450 as soon as all the repairs have been completed satisfactorily. He acknowledged that Mr Cullen has been trying to address the repair issues but may have been “let down” by the various contractors that he has instructed to carry out repairs. Mr McLuckie said that he will liaise with Mr M Cullen regarding the carrying out of necessary repairs, in particular in respect of his availability and access to the Property. He said that he has communicated with the Tribunal’s office regarding a separate eviction order Tribunal application that Mr Cullen has submitted, and, in particular, seeks that a forthcoming Case Management Discussion (“CMD”) is postponed so that repairs can be carried out.
9. Mr M Cullen stated that his father, Mr Cullen, is now housebound due to ill-health. He said that Mr Cullen wants to have the repairs carried out satisfactorily and to be paid full rent. He said that Mr Cullen has paid several contractors an aggregate sum of over £8000 over the last year and shares Mr McLuckie’s frustration that problems with the condition of the Property remain. Mr M Cullen stated that Mr Cullen wants to sell the Property for health and financial reasons and, in this regard, has commenced separate Tribunal proceedings in which he seeks the grant of an order to recover possession of the Property. Mr M Cullen stated that he will liaise directly with Mr McLuckie to make arrangements to have necessary repairs completed.

### **The Repairing Standard**

10. 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**

**11.** Having considered all of the evidence, and the statements of Mr McLuckie and Mr M Cullen, 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. High moisture readings were obtained in that area;
- ii) There has been water ingress in the centre of the living room ceiling and it has resulted in a hole in the ceiling in that area.
- iii) Replacement flooring has been laid in the living room.
- iv) The living room radiator is warm at the top but cool to touch at the bottom.
- v) The extractor fan in the bathroom has been replaced and the new fan is working satisfactorily.
- vi) The areas of mould on walls in the bedroom have been eradicated.
- vii) Mould remains on the blinds in the bedroom.
- viii) A section of flooring is still missing in the bedroom.
- ix) There are no flooring bars at the junctions of the rooms in the Property.
- x) There has been "new" water ingress on the ceiling to the right of the window in the kitchen. This problem is not part of the current Tribunal Application.

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

**12.** In making their findings in fact the Tribunal, in particular, relied on their visual findings at the Inspection, the damp meter readings which they obtained and the statements of Mr McLuckie and Mr M Cullen.

**13.** 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.

**14.** Accordingly, the Tribunal have 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.

**15.** 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 M Cullen, who are both in agreement in respect of the Tribunal's findings in fact.

**16.** The Tribunal therefore determined that the Landlord Mr Cullen has failed to comply with the duties imposed by Section 14 (1)(b) of the 2006 Act given extent of the repairs that require to be carried out.



17. The Tribunal have also decided to make an RSEO, as required by Sections 24 (I) 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, and obtain a report from a suitably qualified contractor in respect of, the cause of the water ingress and dampness high on the wall above the left bay window section and in the centre of the ceiling in the living room by 17<sup>th</sup> August 2026; and
  - ii) carry out such repairs and other works to ensure that the moisture readings in the areas in the living room, referred to in point i) above, are reduced to safe levels and there is no water ingress and/or dampness in those areas; and
  - iii) carry out such repairs and other works to ensure the central heating system is in good working order; and
  - iv) replace the blinds in the bedroom; and
  - v) replace missing flooring in the bedroom; and
  - vi) install flooring bars at the junctions of the rooms in the Property; and
  - vii) provide appropriate documentation and/or certification confirming the execution of the repairs and works, referred to in points ii), iii), iv) and v) above; and
- 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 fully complied with by 28<sup>th</sup> September 2026.

18. The decision of the Tribunal is unanimous.

### **Observation**

19. Given that there has been “new” water ingress on the ceiling to the right of the window in the kitchen, the Tribunal recommend that the reporting contractor addresses this issue and that necessary remedial works are carried out when the works in compliance with the RSEO are being done.

### **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: 6<sup>th</sup> July 2026**