

Housing and Property Chamber
First-tier Tribunal for Scotland



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

**STATEMENT OF DECISION OF THE TRIBUNAL UNDER SECTION 24(1) OF THE
HOUSING (SCOTLAND) ACT 2006**

Case Reference FTS/HPC/RP/25/3330

Property at Flat 3/2, 493 Victoria Road, Glasgow, G42 8RL ("the Property"), being ALL and WHOLE that flatted dwellinghouse known as and forming Flat 3/2, 493 Cathcart Road Glasgow, G42 8RL being Part and Portion of the subjects more particularly described in the Disposition in favour of Cathcart District Railway Company recorded in the Division of the General Register of Sasines for the Barony and Regality of Glasgow on 3rd February and 23rd March 1886.

The Parties: -

Mr Michael White, residing at Flat 3/2, 493 Victoria Road, Glasgow, G42 8RL ("The Tenant"),

And

NETWORK RAIL INFRASTRUCTURE LIMITED, a company incorporated under the Companies Acts (Registered Number 02904587) and having its registered office at Waterloo General Office, London, United Kingdom, SE1 8SW ("The Landlord")

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 the Landlord has complied with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 ("the 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 Act, and has determined to make a Repairing Standard Enforcement Order ("RSEO").

The Tribunal comprised: -

Mr. Andrew Cowan, Legal Member, and
Ms. Peter McEachran, Ordinary Member (Surveyor)

Background

1. By application dated 4th August 2025 (hereinafter referred to as “the Application”) the Tenant applied to the Tribunal for determination as to whether the Landlord had failed to comply with the duties imposed by section 14(1)(b) of The Housing (Scotland) Act 2006.
2. The Application stated that the Tenant considered that the Landlord had failed to comply with the duty to ensure the House meets the Repairing Standard and that the Landlord has failed to ensure compliance with the statutory requirement to ensure that
 - a. The property is wind and watertight and in all other respects reasonably fit for human habitation.
 - b. The structure and exterior of the property (including drains gutters and external pipes) are in a reasonable state of repair and in proper working order.
 - c. The property meets the tolerable standard, in particular that it is substantially free from rising or penetrating damp.
 - d. Any common parts pertaining to the house can be safely accessed and used.
3. The Tenant provided within the Application details as to why he considers that the Landlord has failed to meet the Repairing Standard.
4. A summary of the issues which were intimated to the Landlord, and which were referred to in the Application are:-
 - a. The house is not wind and watertight due to water ingress at the roof and chimney of the property, along with penetrating dampness, which affects the internal rooms of the property and the common parts. There is dampness and mould throughout the Property.
 - b. The ceiling in the common stairwell of the property is not structurally sound as

a result of water ingress and dampness.

5. The Application was accepted by the Chamber President on 1st October 2025 and was referred for this Tribunal's consideration.
6. By letter issued to all parties on 10th February 2026 the Tribunal advised they would inspect the property on 23rd March 2026 at 10am. Parties were advised that a hearing would then be held at 11:45am on the same date at Glasgow Tribunals Centre, 20 York Street, Glasgow G2 8GT.

Property Inspection

7. The Tribunal inspected the property on 23rd March 2026, The Tenant was present at the time of the inspection. The Landlord's solicitor also attended the inspection along with representatives of the Landlord.
8. At the inspection the Tribunal noted that:
 - a. The Property comprises a third floor and attic flat in a four story and attic tenement building.
 - b. There are six flats within the building, and the ground floor is occupied by commercial premises
 - c. The building has been constructed above a bridge over an electrified rail line (forming part of the Cathcart Circle railway providing commuter service to Glasgow's southside).
 - d. The tribunal noted, in the attic left bedroom of the Property, that several damp patches were evident on the mid wall (North most) adjacent to a chimney. Moisture meter readings were taken in several areas on this wall and excessive moisture was recorded in these areas.
 - e. The chimney breast immediately above the Property has been rendered and flashing renewed at some point in the relatively recent past. Hairline cracking is evident on the render.
 - f. An area of ceiling plasterwork in the common stair head has become defective and appears to have collapsed. This appears to be as a result of continued water penetration. A rudimentary temporary repair has been carried out however this appears only to have partially resolved temporarily the issue and further water ingress during periods of heavy rainfall has been reported.

The Hearing on 23rd March 2026

9. A hearing in relation to the Application was held on 23rd March 2026 at Glasgow Tribunals Centre, 20 York Street, Glasgow G2 8GT.

The Tenant attended the hearing and gave evidence to the Tribunal.

The Landlord was represented at the hearing by Mr. Neil Brannigan, solicitor.

10. At the start of the hearing the Tribunal outlined their observations from their inspection of the property.
11. The Landlord's solicitor confirmed that the Landlord accepted that the Property did not meet the Repairing Standard. It was accepted by the Landlord that there is significant dampness in the attic left bedroom at the Property and that the ceiling of the common stairwell continues to be affected by significant water ingress.
12. Accordingly, the discussion at the hearing centered on what steps were required to be taken by the Landlord to carry out necessary repairs to ensure that the Property meets the repairing standards.
13. The Tribunal noted that the location of the Property has significant and unique challenges which constrain the ability of the Landlord to carry out the necessary repairs to the Property, whilst mitigating health and safety risks whilst any such necessary risks were completed.
14. Having heard from parties at the CMD the Tribunal determined to issue Directions to which required the Landlord: -
 - a. to carry out such investigations and obtain such reports as are necessary to ascertain the works required to the property to ensure the property and common parts meet the repairing standard;
 - b. to provide the Tribunal with a specification of the required works and a proposed timetable for those works to be completed; and
 - c. to comply with these directions by not later than 30 June 2026.”:

- 15.** On 30th June 2026 the Landlord lodged a further written submission and productions with the Tribunal. The Landlord also lodged with the Tribunal: -
- a. Survey Report relating to 493 Victoria Road, Glasgow, prepared by IDP Architects LLP dated 13 May 2026; and
 - b. Proposed Programme of Works relating to 493 Victoria Road, Glasgow, prepared by the Landlord dated 24 June 2026
- 16.** On 13th July 2026 the Tenant lodged with the Tribunal
- a. Wise Property Care damp survey report (ENQ832018) This survey was commissioned by Robb Residential and carried out at the property on 18 March 2026
 - b. Copy emails between the Tenant and the Landlord's letting agents in relation to proposals by the Landlord to carry out works at the Property.

Hearing on 16th July 2026

- 17.** The Tribunal convened a further hearing in relation to the application which was held By teleconference. The Tenant joined the teleconference call. The Landlord was again represented by their solicitor Mr Neil Brannigan, solicitor.
- 18.** At this hearing the Tribunal were able to consider the terms of the various reports which had been lodged by parties. The Tribunal noted that the survey report which had been carried out on behalf of the landlord by IDP Architects LLP ("the IDP report") provided a comprehensive report on the condition of the Property along with recommendations as to works required at the Property. The report which had been prepared by Wise Property Care, and which had been lodged by the Tenant, was not in conflict with the report lodged by IDP Architects.
- 19.** The IDP report identified significant damp within the Property where dampness was found on the north-facing separating wall in the upper-level main bedroom. The Report identified that this wall showed:
- Extensive staining
 - Peeling wallpaper
 - Efflorescence (salts forming beneath the wallpaper)
 - Elevated moisture readings of 20-22%, indicating ongoing water penetration.
 - Risk of further deterioration

- 20.** The IDP report further stated that the identified moisture levels within the Property indicate:
- Continuing water ingress
 - Potential mould growth
 - Risk of timber rot
 - Further damage to finishes and structural elements if left untreated.
- 21.** The IDP report identified the probable source of dampness and water ingress at the Property as at a large chimney stack above the internal wall. The architect's view is that there is likely either no effective lead flashing or compromised flashing, allowing moisture to penetrate the chimney and migrate into the wall below.
- 22.** The IDP report also raised concerns about the condition of Velux windows in the attic floor of the Property. The architects believe the Velux windows are likely installed in a similar defective manner to others in the building which have already been linked to water ingress problems.
- 23.** The IDP Report also identified that the common stairwell has experienced recurring water penetration over several years, and that previous repairs failed to resolve the problem. A temporary drip tray system had to be installed to control water entering through the roof area pending permanent repairs.
- 24.** The IDP Report recommends:
- (a) Further investigation of the chimney stack to determine the exact source of water ingress.
 - (b) Possible chimney repairs
 - (c) Replacement of the Velux windows in Flat 3/2 and the common stair with properly installed units.
 - (d) Removal of the damaged bedroom wall finishes and investigation for rot.
 - (e) Construction of a new insulated internal partition wall in front of the damp masonry wall to reduce future damp transmission into the room.
- 25.** The Landlord has highlighted the constraints in carrying out necessary works as the Property is situated above a live operating railway line, which complicates remedial works. Any works must take account of the risks posed to workers operating above a

live railway line, to passing trains and railway infrastructure. All works therefore require proper planning, safety assessments, and coordination with railway timetables.

26. At the hearing the Landlord proposed that any order granted by the Tribunal which required works to be carried out at the Property should allow a period of six months for completion of these works, to ensure that sufficient time was allowed for the Landlord to complete their investigations in relation to the chimney stack at the Property and to complete all necessary works at the Property to ensure that the Property is brought to the Repairing Standard.
27. The Tenant highlighted that the Landlord has already had significant time to begin to organise the necessary further investigations and to instruct the necessary work to the Property. The Tenant considers that a maximum of four months should be sufficient to allow the Landlord to complete their investigations and to carry out the necessary work.

Decision

28. Having viewed the Property, and having considered the available evidence which had been made available, the Tribunal have decided to make a Repairing Standard Enforcement Order in relation to the Property. It is a matter of agreement between the parties that the Property does not meet the Repairing Standard due to this significant issues of dampness and water ingress into the Property at the north-facing separating wall in the upper-level attic bedroom and common stairway of the Property.
29. The Property does not currently meet the Repairing Standard and in particular the Landlord has failed to comply with subsections (a), (b), (h), (i) of Section 13(1) of the Act.
30. The Property does not meet the Tolerable standard as required by subsections (h), of Section 13(1) of the Act and section 86 of the Housing (Scotland) Act 1987. In particular, the Property is not substantially free from rising or penetrating damp.

Reasons for Decision

31. Having inspected the Property, and having considered the evidence by provided by the Tenant, the Tribunal were satisfied that the Property does not meet the Repairing Standard. This was not disputed.

32. The Tribunal consider that (having taken account of the constraining factors which limit the Landlord's ability to repair the Property due to being sited above a live railway line) it is reasonable for the Landlord to arrange to complete necessary works to repair the Property so that it meets the Repairing Standard by no later than 30th November 2026. The Landlord has already prepared a proposed programme of works and has had time to begin to put in place the necessary consents to allow the necessary works to commence. The Landlord is able to seek a variation to the terms of the RSEO in the event that they are unable to complete the works within the period of time ordered by the RSEO under section 25 of the Act.
33. The Tribunal accordingly have determined that the Landlord has failed to comply with the duty imposed by Section 14 (1)(b) of the Act.
34. The Tribunal shall make a Repairing Standard Enforcement Order as required by section 24(1) of the Act. The Tribunal determined to require the Landlord to carry out such works as are necessary to ensure that the Property (both in relation to the internal parts of the Property and the common parts of the Property) meets the repairing standard in all respects (having regard to the works as recommended by IDP Architects LLP within their dated 13th May 2026).
35. The Tribunal order that the works specified in the RSEO must be carried out and completed by 30th November 2026.
36. The decision of the Tribunal is unanimous.

ANDREW COWAN

Chairperson
Andrew Cowan

Date 20th July 2026