

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

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**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71(1) of the Private Housing Tenancies (Scotland) Act 2016 and Rule 111 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.**

**Chamber Ref: FTS/HPC/CV/25/3280**

**Re: Property at 32A Portland Street, Troon, KA10 6EA (“the Property”)**

**Parties:**

**Ducks Hill Properties, 7 Gilbert Close, Alington, Norwich, NR14 7NX (“the Applicant”)**

**Mr Andrew Hunter and Ms Natalie Allan, 32A Portland Street, Troon, KA10 6EA (“the Respondent”)**

**Tribunal Members:**

**Martin McAllister (Legal Member) and Sara Hesp (Ordinary Member) (“the tribunal”)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order be made against the Respondent for payment of the sum of ONE THOUSAND FOUR HUNDRED AND FORTY POUNDS (£1440) to the Applicant.**

**Background**

- 1. By an application dated 30 July 2025, the Applicant’s Agents submitted an application to the First-tier Tribunal for Scotland seeking an order of payment in respect of rent arrears of £4450.**
- 2. On 18 August 2025 the application was accepted for determination by the Tribunal.**

3. A case management discussion was held by audio conference on 14 January 2026.
4. A hearing was fixed for 7 July 2026 but, for various reasons, was adjourned without evidence being heard.

#### **Hearing 23 July 2026**

5. A hearing was held in Glasgow Tribunal Centre on 23 July 2026.
6. The tribunal also considered an application for an order of eviction (FTS/HPC/EV/25/3279).
7. Mr Hunter and Ms Allan were present and were represented by Mr Gerard Tierney of Ayr Housing Aid Centre.
8. The Applicant was not present and was represented by Mr Callum Booth, a director of Altro Properties Ltd, its letting agent. Mr James Craigan, another director was also present.

#### **Preliminary Matters**

9. Mr Booth advised that the current level of rent arrears was higher than £4450 and indicated that the Applicant would be seeking a payment order in respect of all arrears. Mr Booth said that no application had been made to increase the sum sought and that the Applicant had not made any intimation to the Respondent with regard to this. The terms of Rule 14 A were explained to Mr Booth and, in the absence of an application in terms of the said Rule and appropriate intimation to the Respondent, the tribunal indicated that it would be considering only the sum sought in the application.
10. Both parties had submitted written representations and productions.
11. It was noted that Altro Properties Ltd was the third letting agent during the course of the tenancy, and that it had taken over management of the Property in April 2026. The rent statement submitted by the Applicant showed that the rent arrears in April 2025, when Altro Properties Ltd took over management of the Property was £2875. Mr Tierney said that this figure was not disputed.
12. Mr Tierney said that the Respondent accepted that there are arrears of rent but that the rent should be abated because of defects in the Property. he said that he would be leading evidence with regard to the Applicant's failure to timeously resolve ingress of water to the Property and repair a boiler and toilet.

### **13. Findings in Fact**

- 13.1 The parties entered into a private residential tenancy agreement in respect of the Property on 13 April 2023.
- 13.2 The tenancy commenced on 18 April 2023.
- 13.3 The Respondent has a contractual obligation to pay monthly rent of £525.
- 13.4 The sum due and unpaid in respect of rent as at 30 July 2025 was £4450.
- 13.5 The sum due and unpaid in respect of rent as at 17 June 2026 was £6550.
- 13.6 The sum due and unpaid in respect of rent as at 23 July 2026 was £5825.
- 13.7 During the course of the tenancy, there have been three letting agents acting on behalf of the Applicant.
- 13.8 Altro Properties Ltd commenced management of the Property on behalf of the Applicant in April 2025.
- 13.9 Since the commencement of the tenancy until September 2025, there was water ingress to the Property as a consequence of the need to repair the roof of the tenement.
- 13.10 Roof repairs were completed in September 2025 and, since then, there has been no evidence of water ingress.
- 13.11 Damp staining to the décor of the Property was caused by water ingress and has not been repaired.
- 13.12 During the course of the tenancy, the central heating boiler was not functioning for some days.
- 13.13 During the course of the tenancy, the WC in the Property was not functioning for a period of two weeks.
- 13.14 Since January 2026, the Respondent has paid £1800 in part payment of arrears of rent.

### **Finding in Fact and Law**

- 14. The Respondent is entitled to an abatement of rent from 18 April 2023 to 30 July 2025 amounting to £3010.

### **15. Documents before the tribunal**

- 15.1 Private Residential Tenancy Agreement dated 13 April 2023.
- 15.2 Rent statement from 16 April 2025 to 17 June 2025 showing arrears of rent of £6650.
- 15.3 Email communications between the Respondent and the Applicant's various letting agents.
- 15.4 Photographs of the internal parts of the Property.

## **Reasons**

### ***Matters not in dispute***

16. The Property is a first floor two bedroomed flat in a tenement comprising two flats and ground floor commercial premises.
17. The tenancy commenced on 18 April 2023.
18. The contractual monthly rent is £525.
19. When Altro Properties Ltd took over management of the Property in April 2025, it accepted that roof repairs required to be carried out to the tenement and that there was water ingress to the Property.
20. Altro Properties Ltd liaised with the other proprietors in the tenement and organised repairs to the roof which were completed in September 2025.
21. As at 30 July 2025, there were rent arrears of £4450.
22. As at 17 June 2026, there were rent arrears of £6550.
23. As at 23 July 2026, there were rent arrears of £5825.
24. The Respondent paid no rent to Altro Properties Ltd, the agents of the Applicant, from the commencement of its management of the Property until 23 January 2025 when a payment of £725 was paid.
25. The rent of £525 was paid on 25 February, 25 March, 23 April and 27 May and 25 June 2026.
26. Since January 2026, the Respondent has paid £1800 in reduction of the rent arrears.

### ***Evidence***

#### ***Arrears***

27. The Respondent accepted that there were arrears of rent. Ms Allan said that there had been problems with the landlord failing to carry out repairs. She said that various people had advised her not to pay the rent because of this. She said that she consulted Ayr Housing Aid Centre, a housing advice charity, in January 2026 and accepted their advice that she should start paying the rent and she said that she had paid rent from January to June 2026. She said that she had also been able to make payments of £1800 to reduce the rent. Mr Tierney explained that, although the rent due

date is the 17<sup>th</sup> of the month, Ms Allan gets paid later in the month and that is when rent is paid.

28. Ms Allan said that she would be paying £750 later that day which is the rent due for July and a sum of £225 towards arrears. She said that, when she receives payment for her second job later in the month, she will pay an additional sum of £500 towards the arrears.
29. Ms Allan said that originally the sum for rent had been set aside when not paid to the landlord but conceded that the principal reason for non-payment of rent was because of the financial situation of Mr Hunter and herself and that any funds which had been set aside were used for other purposes.
30. Ms Allan referred to her medical records which had been lodged and which disclosed health issues which she had. Ms Allan said that, during some of her absences from work, she had not received sick pay because she had temporary contracts. She now has a permanent contract with a nursery and also has another job where she works in a breakfast and after school club.
31. Ms Allan said that Mr Hunter had been working at the time the tenancy had commenced and had moved to a job in car sales from which he had been made redundant. He had then had a period of unemployment but was now operating his own gardening business.
32. Ms Allan said that she was confident that she would be able to pay off the arrears of rent.

### ***Water ingress***

33. Ms Allan said that she and Mr Hunter had been excited to move into the Property but, within days, realised that there was a problem with water ingress. She said that this affected the hall and the living room.
34. Ms Allan said that the issue was reported to Clyde Property, the letting agent of the Applicant, and she referred to an email dated 30 April 2023.
35. Ms Allan said that buckets had to be used to catch the water and that the décor was stained as a consequence of the leaks.
36. Ms Allan's evidence was that water ingress continued until the matter was addressed when Altro Properties became the letting agent.
37. Ms Allan said that, at various times, Clyde Property said that contractors had been instructed and she referred to emails which she had submitted.

38. The emails included one from Clyde Property on 21 June 2023 which stated: *"We've now approved the quote to complete full repairs to the roof from your own landlord, and the other owners in the building. I've instructed Essence Roofing to proceed as soon as possible..... I am doing what I can to have this resolved as soon as possible."*
39. Ms Allan said that the repair was not carried out and no explanation was given by Clyde Property. On 3 November 2023, Ms Allan emailed Clyde Property in the following terms: *"Not sure if you are aware but essence roofing have once again cancelled the appointment they made. They have said they will call back.....please can you keep chasing them up with regards to this issue so that they do not take a while to reschedule once again."*
40. Ms Allan said that management of the Property was transferred to Lomond Property and she referred to an email she sent to them on 12 December 2023 in the following terms: *"Not sure if you are aware that we have been having problems with our roof, Clyde Property were supposed to have fixed this issue however it was not fixed before the handover to Lomond Property. I have woken up this morning to find my living room wall soaked, it keeps gradually getting worse.....I would like to know what is now going to happen with the roof....."* Later on the same day, Ms Allan emailed Lomond Property: *"More damage to the roof today alone, not sure if this current damage will stay in the same place or spread to the ceiling with the water coming in, I don't know if it's safe to continue living here until repairs are done."*
41. Ms Allan said that Lomond Property did not resolve the issue of water ingress.
42. Mr Booth said that when Altro Properties Ltd took over the management of the Property, he visited the Respondents who made him aware of the difficulties they were having with the ingress of water. His evidence was that he could not remember the Applicant advising him of the particular issue before his company became the letting agent.
43. Mr Booth said that Altro Properties addressed the issue and arranged to get quotations for roof repairs to be done. He said that the Applicant was quick to approve the repair and that Altro Properties Ltd liaised with the two other owners in the tenement to get agreement for the works. He said that an approach also had to be made to South Ayrshire Council to get permission for the erection of scaffolding. He said that the repairs were completed by September 2026.
44. Ms Allan described the involvement of Altro Properties Ltd in connection with the roof repairs to have been "great." She said that Altro Properties Ltd did what the other letting agents should have done and that she appreciated that the delay from April to September 2026 was understandable given the amount of work involved, the need to engage

with other owners and the requirement to get permission for the scaffolding. Ms Allan said the roof repairs had been effective but that the staining to the walls and ceiling caused by the ingress had not been attended to and she referred to photographs which she had submitted.

45. Ms Allan said that she had been ill for part of the time that there was work outstanding to resolve the water ingress and that the condition of the Property caused her stress. She said that she had felt unable to invite anyone to her home because she was embarrassed because of the water leak and staining to the décor.

#### ***Central heating boiler***

46. Ms Allan said that the central heating boiler had failed to work and that the matter was reported to the letting agent. She said that a part had required to be ordered and that the boiler was out of commission for a few days when there was no heating or hot water.
47. Mr Booth said that he could not comment on the failed central heating boiler because this had occurred before Altro Properties Ltd had taken on management of the Property.

#### ***Faulty Toilet***

48. Ms Allan said that there was a period of two weeks where the WC was not functioning. She said that she was told by the letting agent just to flush using buckets of water. She said that it took two weeks for the repair to be effected.
49. Mr Booth said that he could not comment on the non -functioning WC because this had occurred before Altro Properties Ltd had taken on management of the Property.

#### **Submissions**

50. Mr Booth said that the Respondent had a contractual liability to pay rent. He said that the Respondent had produced no evidence that she had withheld rent because of any repairs issues and had not provided evidence that any rent withheld had been put in a separate account. He said that the Applicant was seeking a payment order for £4450.
51. Mr Tierney said that the Respondent concedes that there are arrears of rent and that it would be appropriate for a payment order to be granted. He said that, when the Respondent received appropriate advice from Ayr

Housing Aid Centre, not only was the rent paid but also significant sums to reduce the level of rent arrears.

52. Mr Tierney submitted that, because of the issues with the roof, the faulty WC and the central heating boiler, an abatement of rent should be applied. He said that these issues should have been resolved by the Applicant within a reasonable time. He said that the Respondent's enjoyment of the Property had been adversely affected because of the water ingress. He said that a tenant should expect to have a functioning WC and central heating boiler.

53. Mr Tierney submitted that a rent abatement of 25% would be appropriate because of the length of time the Applicant took to resolve issues and the impact that this had on the Respondent. He said that, whilst a landlord had to ensure that a tenanted property met the repairing standard, the Respondent was keen to stress that, when Altro Properties Ltd became involved, it had dealt with matters efficiently.

#### **Discussion and Determination**

54. The tribunal considered the written and oral evidence. It found Mr Booth and Mr Allan to be credible and reliable witnesses. Mr Booth was at something of a disadvantage because he could provide no evidence for the period prior to April 2025.

55. It was a matter of agreement that roof repairs had to be carried out to the tenement, and that these were arranged by Altro Properties Ltd when it had become the letting agent for the Applicant.

56. The emails submitted by the Respondent, and the oral evidence of Ms Allan demonstrated that, within days of the tenancy commencing, the Respondents had reported water ingress. The tribunal accepted that this was significant and would have an adverse effect on the Respondent's enjoyment of the Property.

57. The tribunal accepted that the Property's central heating boiler had not been working for a relatively short period. The tribunal did not consider that this was significant. The repair appeared to have been dealt with promptly.

58. A property requires to have a functioning WC. The tribunal accepted the evidence of Ms Allan that the WC in the Property was out of commission for two weeks. Arguably the Property would have been uninhabitable.

## **Abatement**

59. A tenant is entitled to have full enjoyment of a tenanted property and it can be argued that a landlord is not entitled to receive full rent for a period in which they have not met its contractual obligations to the tenant. In *Renfrew District Council v Gray* 1987 SLT (Sh Ct) 70, the Sheriff Principal stated that a tenant may claim abatement of the rent on the basis of that he has not enjoyed what he contracted to pay rent for. The Sheriff Principal stated that abatement could be a defence to an action of rent.
60. In the present case, the tribunal can only deal with the rent arrears as stated in the application, and as at the date of the application, notwithstanding that rent arrears continued to accrue after that date.
61. The tribunal, having accepted the evidence that there were periods where there was significant water ingress and where there was not a functioning WC, determined that it was appropriate to consider abatement of rent from the commencement of the tenancy to 30 July 2025.
62. The central heating boiler was not functioning for a few days. The tribunal considered this to be *de minimis* and not worthy of inclusion in any calculation of abatement.
63. Any abatement of rent is a matter of judicial discretion and a question of balance. Mr Tierney had submitted that an abatement equivalent to 25% of the rent would be appropriate. The tribunal considered this to be excessive and determined that 20% would be appropriate in respect of the water ingress. The tribunal determined that an additional abatement of rent should be made for the period during which the WC was not functioning and that £125 would be appropriate.
64. A 20% abatement on the rent amounts to £105 per month. Within days of the tenancy commencing on 18 April 2023, the Respondent reported that there was water ingress and this continued to 30 July 2025, the date of the application.
65. The tribunal determined that the rent should be abated from 18 April 2023 to 18 July 2025 which is a period of 27 months amounting to £2835. An additional sum of £50 should be applied for the period of 18 July 2025 to 30 July 2025, making a total of £2885. When the abatement for the non-functioning WC is added, the total is £3010. The sum sought in the application is £4450 and the tribunal therefore made a payment order for £1440.

## **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.**

**Martin J. McAllister  
Legal Member  
29 July 2026**