



**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/RP/25/4660

**Re: Property at Grieves House, Cairngall, Longside, Peterhead, AB42 4XR under
Title No ABN10832 (“the Property”)**

The Parties:

**Miss Lauren Young, Grieves House, Cairngall, Longside, Peterhead, AB42 4XR
 (“the Tenant”)**

**Mr Brian Gillanders, Cairngall Farm, Longside, Peterhead, AB42 4XR (“the
 Landlord”)**

**Tribunal Members: Ruth O’Hare, Legal Member, and Andrew Taylor, Surveyor
 Member**

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 Tenant 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 had failed to comply with the repairing standard for the following reasons:-
 - (i) The roof had missing, loose and falling slates.
 - (ii) The guttering was broken and missing in parts, with compromised downpipes.
 - (iii) The property was missing external harling and render exposing blockwork.
 - (iv) An upstairs window was not wind and watertight.
 - (v) The garage rear door was rotted.

- (vi) There was damp and mould in the kitchen.
 - (vii) There was damp and mould in a bedroom wardrobe.
 - (viii) The kitchen hob extraction fan was defective.
 - (ix) The private drinking water supply had been diverted to third party structures.
 - (x) The domestic hot water tank had inadequate capacity.
 - (xi) The shower flow rate was extremely low.
 - (xii) A third-party foul waste pipe was connected to the property's drainage system.
 - (xiii) The septic tank was damaged and unsecured.
 - (xiv) The heating system temperature could not be regulated.
 - (xv) The electrical installation condition report ("EICR") was overdue.
 - (xvi) The interlinked fire alarms required to be replaced.
 - (xvii) The bath panel was damaged.
- 3 The application was accepted as valid and referred to the Tribunal for a determination. A Notice of Referral was served on the Landlord under Schedule 2, Paragraph 1 of the Act. An inspection was scheduled for 18 August 2025 with a hearing set for later that day at Aberdeen Sheriff Court. Parties were invited to make written representations in advance of the hearing.
- 4 The Tenant subsequently highlighted the distance between the property and Aberdeen Sheriff Court which presented challenges in terms of the timings of the inspection and hearing. The Tribunal therefore determined to amend the format and time of the hearing to a teleconference at 3pm on the 18 August 2026. The Tribunal gave notice to the parties. A solicitor on behalf of the Landlord submitted a request for postponement of the hearing to enable it to take place in person, and outlined the reasons why this was the preferred hearing format. The Tribunal was unable to reschedule an in person hearing. The Tribunal therefore advised the parties that in order to make progress on the application the hearing would proceed by teleconference.
- 5 Both parties submitted written representations in advance of the hearing to the Tribunal.

The inspection

- 6 The Tribunal inspected the property at 10.00am on 18 August 2026. Both the Landlord and Tenant were present. The weather was overcast and dry, with heavy rain earlier that day.
- 7 The Tribunal inspected the items listed in the application.
- 8 Externally, the roof was found to have missing slates visible from ground level. The guttering was broken in parts and there was missing harling and render with exposed blockwork. The rear garage door was rotten. The Tribunal viewed the water supply pipes which appeared to have been diverted to provide water to other agricultural buildings through the use of tee pieces. The Tribunal also noted that the third party drainage pipe had been removed by

the Landlord and the property was now the only building connected to the septic tank.

- 9 The septic tank was covered with heavy metal plates which could not be removed during the course of the Tribunal's inspection due to possible health and safety risks. The Tribunal was therefore unable to inspect the inside of the tank.
- 10 Internally, the Tribunal inspected the upstairs window in the hall which was found to have evidence of water penetration. In the kitchen, black mould was identified above the counter units on the wall at ceiling level. The Tribunal inspected the inside of the kitchen units and noted some rusting of the nails fixing the units to the wall. The hob had a cooker top hood which was not designed to operate as a kitchen extractor fan.
- 11 In an upstairs bedroom, the Tribunal found water staining in a wardrobe along with damp readings of around 20% in one isolated area.
- 12 The domestic hot water tank was contained within a cupboard in the upstairs toilet. The Tribunal observed it appeared small for the size of the property. The Tribunal tested the shower flow in the downstairs bathroom which it found to be weak and observed the bath panel which had damage at one end of the unit. The Tribunal was unable to fully test the heating system within the confines of the inspection.
- 13 The Tribunal noted that interlinked smoke and heat detectors had recently been installed. The Tenant confirmed that these were working correctly. The Landlord provided the Tribunal with an up to date EICR at the commencement of the inspection.
- 14 Photographs were taken during the inspection and are included in the attached schedule.

The hearing

- 15 The Tribunal held a hearing on 18 August 2026 at 3pm by teleconference. Both the Tenant and the Landlord were in attendance. The Tenant was also joined on the call by a supporter.
- 16 The Tribunal took the parties through each section of the application and summarised the findings from the inspection before hearing evidence from the parties. The following is a summary of the key elements of the evidence and is not a verbatim account.

The roof

- 17 The Tenant referred to her written representations, stating that the roof leaked at times with water coming through light fittings upstairs.

- 18 The Landlord advised that he was willing to carry out works to remedy the issues but the Tenant had not cooperated in allowing access to contractors.

The gutters

- 19 The Tenant again referred to her written representations.
- 20 The Landlord explained again that the guttering was a simple job but the Tenant would not allow him to carry out the works.
- 21 The Tenant denied being obstructive, with reference to her written representations. She has cooperated in allowing access when given the correct notice by the Landlord.
- 22 The Landlord highlighted that the Tenant insists on communication via recorded delivery letter which presents difficulties with arranging contractors. Often by the time a response is received from the Tenant the contractor is no longer available. The Landlord would prefer communication by email.

External harling/render

- 23 Neither party had anything to add on this point. The Landlord referred to his previous willingness to complete repairs if the Tenant was willing to engage with him.

Rotting garage rear door

- 24 The Tenant referred to her written representations on this issue.
- 25 The Landlord acknowledged that a repair was required. He had spoken with the council who had advised that he could give the Tenant a notice to quit and carry out these repairs once he regains possession of the property. There were various repairs that he would need to spend time getting done.

Damp and mould in kitchen/kitchen extractor fan

- 26 The Tenant explained that the cooker hood does not extract moisture from the kitchen. The damp and mould has spread in recent years. The Landlord had installed a new kitchen and the mould was evident when the old kitchen was removed. However the Landlord had put the new kitchen on top of the existing damp and mould. The backboards of the new kitchen units were damp with rusting screws and mould was coming through from the back of the units into the cupboards.
- 27 The Landlord explained that the unit was a cooker hood, not an extractor fan. He had inspected the property in September 2025 and had not found any evidence of mould or damp. He noted some slates missing on the roof but no evidence of water ingress. He asked the council to assist him in carrying out the inspection. It appeared that some information regarding the repairs may

have gone missing somewhere. He had sent everything he had received from the Tenant to his solicitor and his solicitor may have overlooked the reports of damp. The Landlord was never made aware of the damp and only discovered this in July 2026. He had since done his best to get the required works done.

- 28 The Tenant explained that the inspection in September 2025 had been instigated by the Landlord to explore defects highlighted to him by the council. The council had set up the meeting. The Tenant had not guided the Landlord around the property. He did not inspect the kitchen. He was only looking at those areas raised by the council.
- 29 The Landlord explained that the Tenant had complained to the council which led to the council contacting the Landlord. The Landlord looked at the kitchen in September 2025. The joiner who had installed the kitchen said he would remove the damp. There was no damp evident in September 2025. The Landlord queried what steps the Tenant had taken to remove the mould. The Landlord believes the cause of the mould may be poor ventilation.

Bedroom wardrobe

- 30 The Tenant referred to her written representations.
- 31 The Landlord queried the damp readings taken during the inspection and was provided with an explanation by the Surveyor Member. The Landlord confirmed that he would be willing to investigate the issue further.

Diversion of private water supply

- 32 The Tenant confirmed that the external pipework branches off to provide water to an agricultural building and a caravan used to house seasonal workers.
- 33 The Landlord explained that a blanking joint had been installed on the tee piece so there was no longer a supply of water to the other buildings.
- 34 The Tenant pointed out that the legionnaires risk assessment states that there are no dead legs in the pipework. A blanking joint would equate to a dead leg.
- 35 The Landlord advised that he could put in a straight joint if need be.

Domestic hot water capacity

- 36 The Tenant referred to her written representations.
- 37 The Landlord did not know if the domestic hot water tank has adequate capacity. If not, it will have to be replaced. The tank has been in the property for a long time and the Landlord does not know why it is now a problem.

Shower flow

- 38 The Tenant referred to her written representations.
- 39 The Landlord had the shower flow checked by plumbers who confirmed it is sufficient.

Third party waste pipe

- 40 The parties both agreed that the third party waste pipe has now been removed and the property is the only building connected to the septic tank.

Septic tank

- 41 The Tenant referred to her written representations.
- 42 The Landlord noted that the Tenant had not expressed any concerns about toilets backing up or restricted flow, nor had she shown any evidence of foul waste. The Landlord does have planning permission to put in a new septic tank but is waiting for the Tenant to vacate before carrying out the works. The Landlord has secured a building warrant.

Heating system

- 43 The Tenant noted the difficulties in identifying any issues with the heating system from the Tribunal's visual inspection. Her position is that the heating and hot water systems should be capable of being used independently. The Tenant shouldn't have to have both on during the day. It costs her more.
- 44 The Landlord previously inspected the heating system and checked the TVR valves which were all working when he left. It is standard practice in these types of systems for the hot water and heating to always be on. It is an oil based system. The Landlord explained that there is a thermostat on the hot water tank which doesn't allow it to go over temperature and prevents it from using more fuel. It won't run all day boiling water.

Electrical safety

- 45 The Tribunal noted that the Landlord had provided an EICR and that a copy would be made available to the Tenant.

Fire safety

- 46 The Tenant confirmed that she was content this matter had now been addressed by the Landlord.

Bath panel

- 47 The Tenant advised that a plumber had come out to test the shower flow. The Tenant did not observe the plumber carrying out a flow rate test. The plumber was considering options to improve the water pressure, possibly installing a shower cubicle. The plumber had removed the bath panel that was sealed to the floor with silicon sealant. That had caused the cracks and breakage in the panel. The Tenant had not reason to remove the bath panel or cause damage to it.
- 48 The Landlord had been assured by the plumber that he had no reason to remove the bath panel. The Landlord cannot understand why the Tenant did not see the plumber carrying out a flow rate test but did see him break the bath panel. The Tenant had not advised the Landlord of the damage at the time.
- 49 The Tenant explained that she had expected the plumber to inform the Landlord of the damage. It wasn't for the Tenant to tell the Landlord that his contractor had broken the bath panel.

Findings in fact

- 50 The Landlord and the Tenant entered into a tenancy agreement for the property which commenced on 5 May 2012.
- 51 The tenancy between the parties is a short assured tenancy as defined by section 32 of the Housing (Scotland) Act 1988.
- 52 The roof, guttering, harling and render of the property is not in a reasonable state of repair.
- 53 The window in the upstairs hall is not wind and watertight.
- 54 The rear garage door is not in a reasonable state of repair.
- 55 There is black mould in the kitchen.
- 56 There is evidence of damp in the upstairs bedroom wardrobe.
- 57 The cooker hood is not an extractor fan and is not designed to extract moisture from the kitchen. The kitchen does not have adequate provision for ventilation.
- 58 The piped supply of drinking water to the property is not adequate.
- 59 The hot water tank is adequate for the purposes of the Repairing Standard.
- 60 The shower flow in the downstairs bathroom is not adequate.

- 61 There is no evidence that the septic tank is not in proper working order.
- 62 The heating system is not in proper working order. The heating cannot be used independently from the hot water supply.
- 63 The bath panel is damaged and not in a reasonable state of repair. The Tenant did not cause the damage to the bath panel.

Reasons for Decision

- 64 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.
- 65 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.*" In terms of Section 14(3) of the 2006 Act "*The duty imposed by subsection (1)(b) applies only where – (a) the tenant notifies the landlord, or (b) the landlord otherwise becomes aware, that work requires to be carried out for the purposes of complying with it*".
- 66 The Tribunal is satisfied, having had sight of the Tenant's correspondence to the Landlord and proof of delivery, that the Tenant notified the Landlord of the work required prior to making this application to the Tribunal. Whilst the Landlord had stated that he only became aware of the works required in July of this year, the Tribunal found that difficult to accept. The Tribunal had before it the notification sent to the Landlord on 17 September 2025, along with proof of delivery by recorded mail at the Landlord's address.
- 67 The Tribunal was therefore satisfied that Section 14(3) had been met and proceeded to consider the items in the RSEO.
- 68 Regarding the roof, guttering, external harling and render, and the garage door the Tribunal was satisfied based on the findings of the inspection that these were in a state of disrepair. The Landlord did not dispute this.
- 69 The Tribunal was further satisfied that the upstairs window is not wind and watertight. The Tribunal did not agree that the cause of the water staining was condensation, as was the view of the Landlord. The nature of the staining did not, in the view of the Tribunal, reflect what would be expected if condensation was the root cause. Whilst the Landlord had indicated there had been heavy rain earlier that morning, the Tribunal was aware that the wind direction could affect when water ingress may occur.
- 70 The Tribunal carefully considered the mould in the kitchen. Given the location of the affected areas, the Tribunal is of the view that the likely cause is a lack of

ventilation within the room. The Tribunal did not find evidence of penetrating damp, and considers that instead the Landlord will require to take steps to install appropriate mechanical ventilation to resolve the issue. The Tribunal agreed with the Landlord that the cooker hood is not designed to extract moisture from the room, and on that basis, cannot be said to be functioning incorrectly. The Tribunal further concluded based on the findings of the inspection that there is damp within the cupboard of the upstairs bedroom which will require further investigation.

- 71 Regarding the domestic water pipework, the Tribunal agreed with the Tenant that the actions taken by the Landlord have not sufficiently resolved the issues caused by the previous diversion of the supply. Whilst the Tribunal accepts that the water is no longer being diverted to other properties, further works will be required to ensure the pipework is fit for purpose, such as the removal of the tee pieces and installation of non-return valves to any dead legs.
- 72 The Tribunal accepted, from its testing of the shower during the inspection, that the flow is not adequate. Whilst the Tribunal had not carried out a flow rate test, it was clear that the strength of the flow was not what would be expected from a shower in proper working order. Regarding the water tank, the Tribunal is unaware of any regulations or statutory guidance that provide for a specific capacity depending on the size of the property and was therefore unable to find the size of the tank to be a breach of the Repairing Standard. The Tribunal considers that improvement of the shower flow may assist in addressing the capacity of the tank.
- 73 The Tribunal was unable to make any findings regarding the septic tank. It was unable to carry out a full investigation of the tank due to the limitations of the inspection. The Tribunal noted, however, that the Tenant does not currently appear to be experiencing any issues within the property that would suggest the tank is not in proper working order.
- 74 The Tribunal did not agree with the Landlord that it is standard for heating systems to have no controls to regulate the heating and hot water. From its own specialist knowledge, the Tribunal is aware that heating programmers will have this function as standard. Tenants should be able to control whether the heating or hot water is on at any one time, without the need to have both in use. Because the heating system in the property does not have this function, the Tribunal concluded that it cannot be said to be in proper working order.
- 75 The Tribunal carefully considered the bath panel. The parties are in dispute as to the cause of the damage, with the Tenant alleging fault on the part of the Landlord's contractor, and the Landlord placing the blame on the Tenant.
- 76 Section 16(1)(b) of the 2006 Act states that the Landlord's repairing duty does not require "*any work to be carried out for which the tenant – (i) is liable by virtue of the tenant's duty to use the house in a proper manner*". Having heard the evidence from the parties, the Tribunal was not persuaded that the damage to the bath panel was because of the Tenant's negligence. The Tribunal found

it more believable that the damage had occurred during the investigations by the Landlord's contractor into the low shower flow. The Tenant's evidence on this point was clear and concise, reflecting her written submissions on this point. The Tribunal therefore concluded that the Landlord is responsible for repairing the bath panel.

- 77 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:

Section 13(1)(a) - the house is not wind and watertight and in all other respects reasonably fit for human habitation;

Section 13(1)(b) - the structure and exterior of the house (including drains, gutters and external pipes) is not in a reasonable state of repair and in proper working order;

Section 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.

Section 13(1)(d) - any fixture, fittings, and appliances provided by the Landlord under the tenancy are not in a reasonable state of repair and in proper working order.

Section 13(1)(h) - the house does not meet the tolerable standard, in that it does not have an adequate piped supply of wholesome water available within the house, nor a fixed shower provided with a satisfactory supply of both hot and cold water.

- 78 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 ten weeks.

- 79 The decision of the Tribunal was unanimous.

- 80 As an observation, the Tribunal understands that the relationship between the parties in this case has completely broken down, and that the Landlord is in the process of taking steps to recover possession of the property. The Tribunal would highlight that the Landlord's repairing duty applies regardless of any action ongoing in this regard. It is crucial that parties find a way to cooperate in ensuring the repairs are carried out. The Tribunal did not accept that the Tenant has been deliberately obstructive in allowing the Landlord to carry out works, noting the examples of where contractors had attended the property. However, the Tribunal can understand to an extent the Landlord's frustration in the

restrictions put in place by the Tenant around giving notice for access. It would appear to the Tribunal that communication by email would be much more effective in ensuring the works can progress in a timely manner. The Tribunal would point out that there is nothing in the 2006 Act, nor in the tenancy agreement, that requires the Landlord to notify the Tenant by a specific method.

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 appeal is abandoned or determined.

31 August 2026

R.O'Hare
Legal Member/Chair

Date