



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

**NOTE ON A HEARING OF THE TRIBUNAL UNDER THE HOUSING (SCOTLAND) ACT 2006**

**Case Reference FTS/HPC/RP/26/0763**

**5/2 Hartington Place, Viewforth, Edinburgh, EH10 4LF (“the Property”)**

**The Parties:-**

**Ms Martha Pontin and Ms Caitlin Hothersall, previously residing at 5/2 Hartington Place, Viewforth, Edinburgh, EH10 4LF (“the Tenant”)  
Ms Orla Kerr, Anna Verna, Newport Road, Castlebar, Co Mayo, F23 Y439, Ireland (“The Landlord”)**

**Tribunal Members: Shirley Evans (Legal Member) and Peter McEachrane Ordinary Member (Surveyor)**

**Background**

1. By application dated 17 February 2026 (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 (“the 2006 Act”).
2. The Application stated that the Tenant considered that the Landlord had failed to comply with the duty to ensure the Property meets the Repairing Standard. In particular, the Tenant claimed the Landlord had failed to ensure that -
  - (a) Any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order, in terms of Section 13(1) (d) of the 2006 Act.
  - (b) The house meets the tolerable standard in terms of Section 13(1)(h) of the 2006 Act in that-
    - (i) It has satisfactory facilities for cooking food within the house
    - (ii) It is substantially free from rising or penetrating damp.
  - (c) the house has satisfactory provision for, and safe access to, a food storage area and a food preparation space in terms of Section 13 (1) (j) of the 2006 Act

3. The Tenant provided within the Application details as to why they considered that the Landlord had failed to meet the Repairing Standard. By email dated 9 January 2026 to the Landlord's former letting agents Alba Residential (St Andrews) Ltd, the Tenant intimated a list of defects which the Tenant considered the Landlord required to repair in order to bring the Property up to the Repairing Standard. The Tenant also provided the Tribunal with a copy of the Private Residential Tenancy Agreement commencing 8 September 2025 and further emails with the letting agent from 8 September 2025 to 30 January 2026 regarding the items of disrepair.
4. The Application and accompanying correspondence particularly specified the following issues:
  - a) The hallway carpet was dirty, worn and unhygienic.
  - b) The shower rail was broken.
  - c) The silicone seals around the bath and sink had deteriorated.
  - d) The toilet seat was broken and unhygienic.
  - e) The bathroom had no mechanical ventilation.
  - f) There was black mould in the bathroom.
  - g) The stove, oven, microwave and toaster were a serious electrical and fire hazard due to a leak from above.
  - h) There was unsafe storage space for food.
5. The Application was accepted by the Chamber President and was referred for this Tribunal's consideration.
6. The Tribunal intimated to all parties that they would inspect the Property on 18 September 2026 at 10am. Parties were advised that an in-person hearing would be held at 11.30am on the same date at the Edinburgh Tribunals Centre.
7. On 20 August 2026 the Tribunal issued a Notice of Direction to parties requesting parties to provide further documents and information.
8. On 5 September 2025 the Tenant advised the Tribunal that they had vacated the Property. Under Schedule 2 Paragraph 7(1) of the 2006 Act the Tenant is to be treated as having withdrawn the Application under Section 22(1) of the 2006 Act. The Tribunal considered whether the Application should be determined or whether it should be abandoned in terms of Schedule 2, Paragraph 7(3) of the 2006 Act. The Tribunal decided to continue to determine the Application despite the withdrawal in terms of Schedule 2, Paragraph 7(3) (b) of the Act.
9. On 7 September 2026 the Landlord's solicitors lodged written representations to the Application and the Notice of Direction together with emails between the letting agent and the Landlord's mother, inspection reports dated 26 September 2023, 27 September 2024 and 15 January 2025, a SELECT report dated 31 January 2022, a PAT Report Certificate dated 5 February 2026, various photographs, a Notice to Leave and invoices dated 30 January and 11 February 2026

### **Property Inspection**

10. The Tribunal inspected the Property on 18 September 2026. The Landlord was

present. Mr Runciman from Messrs Gilston Gray, solicitors was also present and represented to Landlord. The Property is a first floor flat situated in a terraced Victorian building. The Tribunal inspected the repairs detailed in the Application and found as follows: -

### Hallway

The carpet was visibly worn through to the hessian backing in places

### Kitchen

There is evidence of historic condensation affecting the kitchen. The ventilation is unsatisfactory. It is appropriate to have the extractor fan connected to the light switch installed to assist in alleviating this issue. The door covering the extractor fan above the cooker is not secure. This should be secured. A deep clean is required in the kitchen.

### Bathroom

The bathroom is affected by condensation. The extractor fan is inoperative. This should be replaced or repaired. The shower head is defective and leaking. The shower flhose attachment should be replaced and the shower fitting adjusted to ensure water pressure is adequate. The cistern lid is cracked.

### Back right-hand bedroom

The vent at the redundant fireplace has been blocked. This should be cleared.

Photographs were taken during the inspection by the Tribunal.

## **The Hearing**

11. The in-person Hearing in relation to the Application was held on 18 September 2026 at Edinburgh Tribunals Centre. The Landlord was present and was represented by Mr Runciman.
12. The Tribunal advised that it had read the written representations made on behalf of the Landlord together with the documentation lodged on her behalf. The Tribunal also advised that following on from the inspection they wanted to be addressed on the hall carpet, the lack of ventilation in the bathroom and kitchen which could in turn lead to condensation or dampness. In addition, the vent at the redundant fireplace in the rear right-hand bedroom has been blocked which could also lead to issues of dampness.
13. Mr Runciman submitted that as the Tenant was no longer resident and had withdrawn from the process, there was a question as to whether the alleged failure to comply with the repairing standard was relevant. The Tribunal confirmed it had considered the position and had issued a Minute of Continuation in terms of Schedule 2, Paragraph 7(3) (b) of the 2006 Act. The Tribunal pointed out that it was of the opinion that the repairing standard had to be considered in the context of the tenancy. The issue before the Tribunal was whether the repairing standard had been

complied with at the start of the tenancy and at all times during the tenancy under Section 14 of the 2006 Act. Mr Runciman thereafter requested an adjournment to consult with Ms Kerr.

14. After a short adjournment the Tribunal asked that they be addressed on each of the matters in turn: -

#### Hall carpet

Ms Kerr gave evidence that the state of the hall carpet had never been brought to her attention. She felt that there had been a lack of communication from the letting agents and the correspondence from the tenants had not always been passed to her. They had asked for photographs which had never been sent. She was not sure what needed to be done. The Tribunal referred to the emails lodged and put it to her that the state of the carpet had been brought to her attention. Ms Kerr accepted that the hall carpet needed to be replaced.

#### Extractor Fan– Bathroom

The Tribunal pointed out that the fan was not working and contravened the building regulations. Whilst there was no condensation present there was evidence on the ceiling that there had been issues with mould. Ms Kerr advised that following the inspection in January 2025 when the issue with the extractor fan had been highlighted to her by the letting agents, she had been under the impression that the letting agents had arranged for the fan to be repaired. She accepted that it had not been so repaired.

#### Condensation and Dampness

Whilst there was no current evidence of mould or dampness in the Property, the Tribunal noted the flat had been unoccupied over recent months. There was evidence of historic mould and condensation issues likely to have occurred during occupation over the winter months. The Tribunal pointed out that the kitchen should have mechanical ventilation linked to the light switch to help prevent condensation dampness. Similarly in the back bedroom the Tribunal had noted the air vent had been covered up and that there was some evidence that there had been black mould on the windowsill. Ms Kerr advised she thought that the previous tenants had covered the vent up.

Ms Kerr also advised that she would arrange for the most recent PAT certificate to be forwarded to the Tribunal.

15. Mr Runciman thereafter submitted that there had been issues with the previous letting agents. Ms Kerr was no longer using them and was after receiving the Application, concerned about the lack of communication from them which had put her in this position, and which may well be the subject of another application. He submitted that a Repairing Standard Enforcement Order ("RSEO") was a public document. Ms Kerr intended to sell the Property. He submitted that if the Tribunal were minded to grant a RSEO that Ms Kerr be given an opportunity to remedy the items without a RSEO being granted. He submitted the Hearing should be adjourned to allow her to remedy matters. It would be fair and reasonable to allow her time to do so. He submitted the Tribunal give guidance as to what Ms Kerr had to do to satisfy the Tribunal. He submitted he would keep the Tribunal advised when the works were

carried out at which stage the Tribunal could consider matters further and if need be re-inspect the Property and hear further evidence.

16. The Tribunal thanked Mr Runciman for his submission and confirmed that it would consider the position. It thanked Ms Kerr for her assistance in giving access and for her evidence.
17. After consideration the Tribunal accepted Mr Runciman's submission that the Hearing be adjourned to allow Ms Kerr to attend to matters as she had no intention of letting out the Property again and was preparing to sell it. The Tribunal is prepared to give the Landlord until 18 November 2026 to:
  - i. Repair or replace the extractor fan in the bathroom so that it is in a reasonable state of repair and in proper working order. This will assist in reducing the risk of condensation dampness.
  - ii. Replace the hallway carpet.
  - iii. Install mechanical ventilation in the kitchen to assist in reducing the risk of condensation dampness.
  - iv. Remove the covering on the air vent in the back right hand bedroom to assist in reducing the risk of dampness.

### **Outcome**

18. The Tribunal adjourned the Hearing until a date to be hereinafter assigned after 18 November 2026 to allow the Landlord to produce evidence she has attended to the matters identified and is intending to place the Property on the market to sell.

**NOTE: This document is not confidential and will be made available to other First-tier Tribunal for Scotland (Housing and Property Chamber) staff, as well as issued to tribunal members in relation to any future proceedings on unresolved issues.**

SHIRLEY EVANS

18 September 2026

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Legal Chair

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Date