Housing and Property Chamber
First-tier Tribunal for Scotland

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/RT/26/0784

Re: Property at DAMHEAD, LUMSDEN, HUNTLY, ABERDEENSHIRE, AB54 4LQ ("the Property")

The Parties:

Mr Ian Simpson ("the Tenant")

Mr Alisdair Taylor, Executors of Alexander Barlas, c/o Burnett & Reid LLP, 9 Queens Road, Aberdeen, AB15 4YL ("the Landlord")

ABERDEENSHIRE COUNCIL, PRIVATE HOUSING, Fleet Services, Harlaw Road, Aberdeen, AB51 4TE ("the Third Party Applicant")

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(1)(A) of the Housing (Scotland) Act 2006 ("the Act") by the Third Party Applicant 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 has failed to comply with the repairing standard for the following reasons:-

(i) There is no fixed heating system.
(ii) The stove had been condemned
(iii) An electrical safety check was required.
(iv) There is no carbon monoxide detection.
(v) The rotting windows required to be replaced or repaired.
(vi) The roof required inspection, including the chimney stacks.
(vii) A hole in the wall and skirting in the living room required repair.

(viii) The electric meter was faulty.
(ix) The property suffered from damp.
(x) The leaking water tank required repair.
(xi) The electrical sockets outside the bathroom required to be secured.
(xii) The front door required repair to prevent drafts.
(xiii) The foul water drainage system was not draining correctly and has exposed pipework above ground level.

3 The application was referred to a tribunal for a determination and Notice of Referral was served on the parties. An inspection and hearing was scheduled to take place on 21 September 2026.

4 On 31 August 2026 the tribunal received written representations from Burnett and Reid Solicitors on behalf of the Landlord.

The inspection

5 The tribunal inspected the property at 10.00am on 21 September 2026. The Tenant was in attendance and permitted access. The Third Party Applicant was represented by Miss Mackay. The Landlord's representative, Mr Taylor of Burnett and Reid, was also in attendance.

6 The property is a single storey detached cottage constructed upwards of 125 years ago. The property is in a remote, rural setting south west of the village of Rhynie, around 35 miles north west of Aberdeen City centre.

7 The main outer walls are of solid stone construction and the roof is pitched and slated. There are front and side extensions forming the entrance porch and bathroom. Space heating is provided by electric heaters to all main rooms. There is a wood burning stove in the lounge/kitchen. The majority of the windows are PVC framed and are double glazed.

8 The accommodation comprises on the ground floor: entrance porch, inner hallway, lounge with kitchen on open plan, and bedroom leading to shower room with toilet.

9 The inspection was restricted to those items within the application paperwork. The exterior was first inspected. To the front elevation, it could be seen that the roof ridge tiles, chimney heads and roof skews had been re-pointed in recent times. There was a degree of unevenness to the roof pitch, notable to the north-west (right hand) section, consistent with deformation of the supporting timbers. At the rear elevation, the south eastern skew had been repointed in recent times. The cement fillet at the edge of the slates and pointing to the stonework of the north western skew was weathered and cracked in places, with a visible gap between the slates and the cement. Again, there was a degree of undulation to the roof pitch, notable to the western end of the roof. Overall, the slating was complete and largely intact. There is a small tree or bush growing close to the western end of the building/roof.

10 At the front of the building, the rainwater downpipes discharge directly on to the concrete path outside the building or directly on to the ground. Miss MacKay said that works had been carried out at the rear downpipe and that the internal plumbing was no longer backing up.

11 The outer door to the porch had been replaced in recent times along with some of the timbers to the porch. There was a draught strip around the outside edge of the door. When viewed internally, there was a slight amount of daylight visible around the bottom closing edge of the door.

12 Miss MacKay confirmed that the rotten windows had been attended to

13 The lounge/kitchen were inspected. The woodburning stove was in use at the time of the inspection. The tenant explained that it had been condemned on account of the stove being supported on loose bricks, the timber fire surround was scorched due to proximity to the stove and the flue was not lined. A carbon monoxide detector was affixed to the wall within the lounge.

14 To the right hand side of the fire, there was a small hole (approximately 25mm x 25mm) in the plasterboard, next to where the skirting board had been replaced recently.

15 New electric heaters had been installed in the lounge/kitchen and bedroom, with a wall mounted electric fan heater in the shower room. The house was found to be warm throughout, during the inspection. The tenant explained that the fan heater in the shower room, didn't switch off when the cord switch was pulled. The fan could however be switched off using the switch at the wall outlet.

16 The interior was inspected in respect of damp and mould. There was a degree of mould build-up to the timber linings of the bedroom, adjacent to the window. There was further mould growth to the wall linings of the bedroom near the shower room. Within the shower room, there was mould growth to the corners of the walls and behind the basin and toilet. The shower room has an openable window and mechanical ventilation, which operated when switched on. Moisture levels were checked using a Protimeter Surveymaster moisture meter. Where tested all areas showed green or amber readings, with readings generally below 20%. The pattern of mould growth is consistent with condensation in the past, with no evidence of condensation at the time of the inspection.

17 There is an electrical consumer unit located within the inner hallway, mounted at a high level. The consumer unit incorporated a residual current device and the attached label indicated that it had been tested on 09/07/2026. The LCD on the adjacent electric meter was blank. Miss MacKay advised that the defective electrical outlets outside the shower room had been attended to.

18 Miss MacKay advised that the defective water tank within the shower room had been rectified.

19 Photographs were taken during the inspection and these are appended to this decision.

The hearing

20 The hearing took place on 21 September 2026 at 2pm by teleconference. The Third Party Applicant was represented by Miss Mackay. The Landlord was represented by Mr Taylor. The Tenant also joined the call.

21 The tribunal explained the purpose of the hearing. As a preliminary matter the tribunal noted that Mr Taylor had submitted an electrical installation condition report ("EICR") and an inspection report shortly prior to the hearing. Miss McKay confirmed she had received the documents.

22 The tribunal proceeded to hear evidence from the parties on the items listed in the application. The following is a summary of the key elements of the evidence.

Fixed heating system

23 Miss MacKay explained that the heating system had been partially installed. The bathroom did not have a panel heater and is heated instead by a fan heater fixed to the wall.

24 Mr Taylor confirmed that a panel heater for the bathroom had been ordered and contractors would be installing this in due course. In the meantime there is heating in the bathroom by way of the fan heater.

Stove

25 Miss MacKay explained that the stove had been condemned therefore the Tenant would like it to be fixed or replaced.

26 Mr Taylor explained that a heating contractor had attended the property and had condemned the stove. The Tenant had had been advised not to use it for that reason. The installation of the fixed heating system was to replace the stove as the main heating source for the room. The fitting of a carbon monoxide detector had been necessary as the Landlord was aware the Tenant was still using the stove. The Landlord's intention would be to remove the stove as it is no longer necessary. The Tenant has to date prevented this.

EICR

27 Miss MacKay confirmed she was satisfied based on the EICR that the electrical safety has now been addressed.

Carbon monoxide detector

28 Miss MacKay confirmed that a carbon monoxide detector has now been installed.

Rotten windows

29 Miss MacKay confirmed that new windows have been installed.

Roof

30 Miss MacKay explained that some repairs had been carried out to the roof however the Tenant is concerned that is appears sunken in places. There are no signs of water ingress at present. Miss MacKay does not know if a full inspection of the roof has been undertaken by the Landlord but she feels this is required.

31 Mr Taylor explained that works to the roof had been recently carried out. He had hoped that the works would have been completed by the end of August however that had not happened. The Landlord would arrange to complete any outstanding repairs.

Hole in wall/skirting in living room

32 Miss Mackay explained that there remains a small hole in the wall above the skirting that needs repair.

33 Mr Taylor advised that the hole in the skirting board had been repaired but he did not know why the contractor had not filled the hole in the wall.

Faulty electric meter

34 Miss MacKay acknowledged that this is something that the Tenant will have to address with the electricity provider directly.

Damp

35 Miss MacKay noted the tribunal's observations from the hearing regarding the damp meter readings.

36 Mr Taylor agreed with the tribunal's observations. He confirmed that the Landlord will treat the black mould and carry out redecoration thereafter.

Leaking water tank

37 Miss MacKay confirmed that the leaking water tank has now been repaired.

Electrical sockets outside bathroom

38 Miss MacKay confirmed that the electrical sockets have now been secured.

Front door

39 Miss MacKay confirmed that the front door had been replaced but there still appeared to be gaps through which daylight could be seen.

40 Mr Taylor stated that a simple solution may be to install a storm bar at the bottom of the door to mitigate against drafts and water ingress.

Foul water drainage system

41 Miss MacKay confirmed that the pipework is no longer visible and there are no problems with drainage. She was content that this has been addressed.

Closing submissions

42 Miss MacKay stated that she was satisfied that a number of the items listed in the application had not been resolved, albeit fairly recently. There were still some items outstanding, particularly the stove which she accepts may be trickier to resolve. Miss MacKay understood that there may have been some issues with access to the property, explaining that at one point it appeared the Landlord was not receiving a response from the Tenant when in fact the Landlord had the wrong telephone number. This had now been resolved.

43 The Tenant stated that the stove needs to remain in the property as the electric heaters are not reliable in the event of power cuts.

44 Mr Taylor explained that there has been a historic lack of cooperation from the Tenant and issues with unpaid rent. The Tenant had cooperated with recent efforts to have work carried out. Miss MacKay's comments regarding a wrong phone number were puzzling as the Landlord has communicated with the Tenant by both telephone and email. The Landlord's expectation was that the works would be completed by the end of August, but Mr Taylor acknowledged that there are still things outstanding. Mr Taylor invited the tribunal to find that the remaining matters do no substantially affect the condition of the property and would all be addressed by the Landlord. The Landlord had taken all reasonable steps to address their obligations under the Repairing Standard.

Findings in fact

45 The Tenant entered into a tenancy for the property with Mr Alistair John Barlas, who is now deceased. Mr Barlas' estate is currently being administered by his Executors. The tenancy commenced in December 2013.

46 The tenancy between the parties is an assured tenancy as defined by section 1 of the Housing (Scotland) Act 1988.

47 Previously the sole heating source in the property was a stove in the living room. The stove has been condemned and is not in proper working order. The Landlord has installed a fixed heating system within the property which consists of electric panel heaters in the living room and bedroom, and a fan heater in the bathroom. The fixed heating system is in proper working order.

48 There is evidence of mould in the bedroom and bathroom. The lack of heating in the bedroom and bathroom prior to the installation of the fixed heating system is the likely cause of the mould.

49 There is no evidence of penetrating damp within the property.

50 There is no evidence of water ingress from the roof to the property. The roof is in a reasonable state of repair, taking into account the age, location and character of the property.

51 The wall in the living room adjacent to the stove has a hole in the plaster and is not in a reasonable state of repair.

52 The front door has a gap at the bottom and cannot be said to be wind and watertight.

Reasons for Decision

53 The tribunal determined the application having regard to the terms of the application, the findings from the inspection, the written representations from the parties and the oral evidence at the hearing. The tribunal was satisfied having regard to all the available evidence that there was sufficient information upon which to reach a fair determination of the application.

54 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*."

55 In terms of section 22(1)(A) of the 2006 Act, a third party applicant can apply to the Tribunal for a determination of whether the landlord has failed to comply with the duty under section 14(1)(b). Section 22(2) of the 2006 Act provides that "*no application under this section may be made unless the person making the application has notified the landlord that work requires to be carried out for the purpose of complying with that duty.*" The tribunal was satisfied, having had sight of the correspondence between the Third Party Applicant and the Landlord which preceded the raising of the application, that the Third Party Applicant notified the Landlord of the work required prior to making this application to the Tribunal.

56 The tribunal therefore considered whether the Landlord has complied with the duties under section 14(1)(b) of the Act.

57 The tribunal was satisfied based on the submissions from the Third Party Applicant that the electrical installations condition report, the carbon monoxide detection, the windows, electric meter, the water tank, the electric sockets, and the foul water drainage system have been addressed by the Landlord. The tribunal therefore determined to make no findings on these matters.

58 The tribunal carefully considered the evidence regarding the fixed heating system and the stove. The tribunal was satisfied that the property now has an adequate fixed heating system in terms of the electric panel heaters in the living room and bedroom, and the fan heater in the bathroom. Whilst the Third Party Applicant had pointed out some issues with the operation of the fan heater, the tribunal was satisfied that it could be easily turned on and off via the switch on the wall. The tribunal therefore determined that it is in proper working order. The tribunal notes in any event the Landlord's intention to install a panel heater in the bathroom in due course which the tribunal considered to be a prudent course of action.

59 Regarding the mould that was observed in the bedroom and bathroom, the tribunal considered that this was a failure of the repairing standard, in particular section 13(1)(ha) of the 2006 Act which requires the property to be "*substantially free from damp and mould".* Whilst the cause of the mould appears to have now been addressed by the new heating system, the tribunal considered that the Landlord will need to carry out works to treat and remove the mould, and redecorate the affected areas.

60 The tribunal considered the stove. The tribunal accepted that when the property was let to the Tenant, the stove was likely the only source of heating within the property, and the lack of a fixed heating system in the bedroom and shower room would account for the mould that had developed. The tribunal considered the Landlord's obligations regarding the stove, which has now been condemned. The tribunal accepted the Landlord's evidence that the installation of the fixed heating system was intended to replace the stove as the main heating source for the property. The issue for the tribunal to consider therefore was whether the repairing standard duty continues to place obligations on the Landlord to maintain the stove, when an alternative heating system is now in place.

61 The duty under section 13 requires a landlord to ensure that "*the installations in the house for the supply of water, gas, electricity..and for sanitation, space heating by a fixed heating system and heating water are in a reasonable state of repair and proper working order".* The Landlord has now installed a heating system that is in proper working order. To require the Landlord to repair or replace the stove in such circumstances would, in the view of the tribunal, go beyond the requirements of the repairing standard. The tribunal was unable to conclude that the prospect of power cuts justified the Landlord's ongoing maintenance and repair of the stove, which the tribunal would suggest is removed to prevent any further risks to the Tenant.

62 The tribunal carefully considered the condition of the roof. Whilst the tribunal agreed that there is unevenness to the roof pitch, the tribunal found no evidence of water ingress or any other significant defects. The tribunal considered that in the absence of further evidence to the contrary, the roof is currently in a reasonable state of repair, having regard to the age, character and location of the property. The tribunal would however recommend the Landlord carry out further investigations considering the Tenant's concerns to mitigate against the risks of any structural deterioration in future.

63 Regarding the hole in the living room wall, the tribunal was satisfied based on its findings from the inspection that the wall is not in a reasonable state of repair and as such requires to be addressed by the Landlord.

64 Similarly, it was clear from the inspection that daylight can be seen around the edges of the front door and as suggested by Mr Taylor during the hearing, the tribunal would require the Landlord to install a storm bar to address this.

65 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:

(i) In respect of section 13(1)(a), the house is not wind and watertight and in all other respects reasonably fit for human habitation.

(ii) In respect of section 13(1)(ha), the house is not substantially free from mould.

66 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 one month.

67 Following the hearing, the Landlord's representative emailed the tribunal alleging further examples of the Tenant obstructing access to the property. The tribunal would remind the Tenant of his obligations under the tenancy agreement to cooperate with the Landlord in allowing access to the property for inspection and repairs.

68 The decision of the Tribunal was unanimous.

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 or determined.

RUTH O'HARE

19 October 2026

Legal Member/Chair **Date**

Housing (Scotland) Act 2006

Damhead, Cottage, Lumsden, Huntly, Aberdeenshire, AB54 4LQ

Chamber Reference: FTS/HPC/ RT/25/0784

Initial inspection: Schedule of Photographs

Inspection Date: 21/09/2026



Photograph 1 Front (North east elevation).



Photograph 2 Rear Elevation.



Photograph 3 Front elevation: Rainwater downpipes discharge onto ground.



Photograph 4 Outer door of porch: Recently replaced door and some timbers to porch.



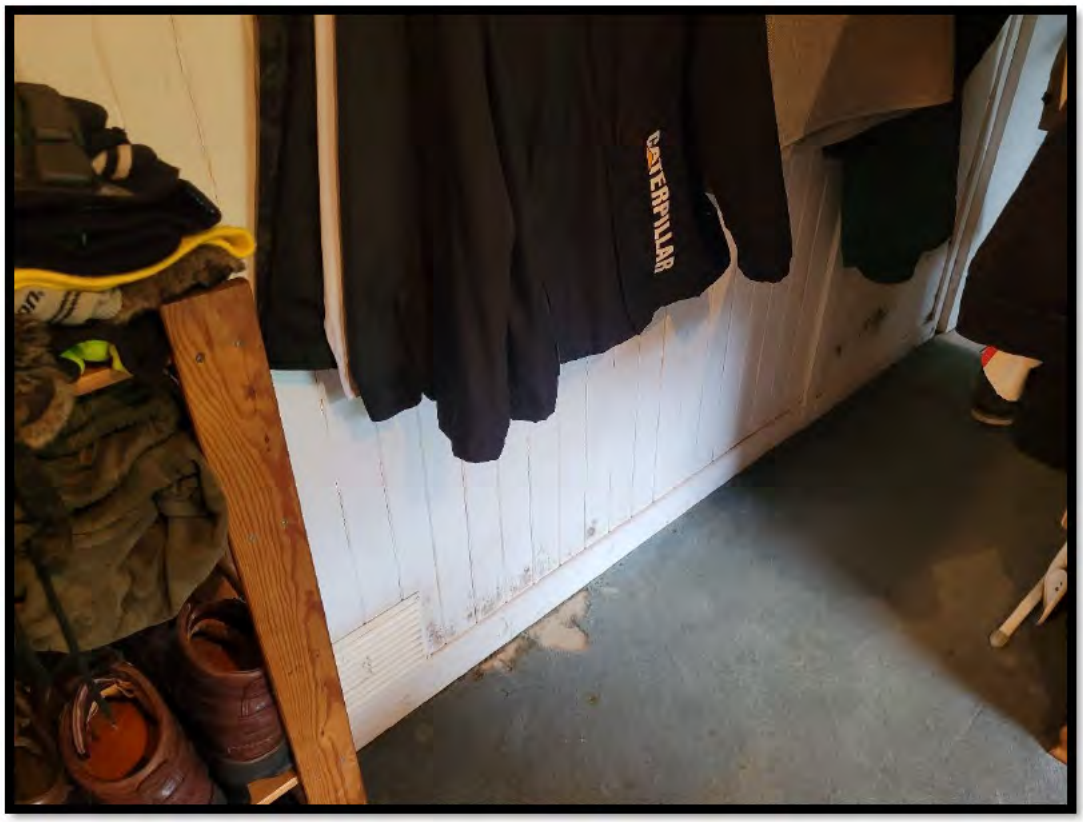
Photograph 5 Lounge: woodburning stove, CO alarm to right hand side.



Photograph 6 Lounge: Hole to side of fire surround.



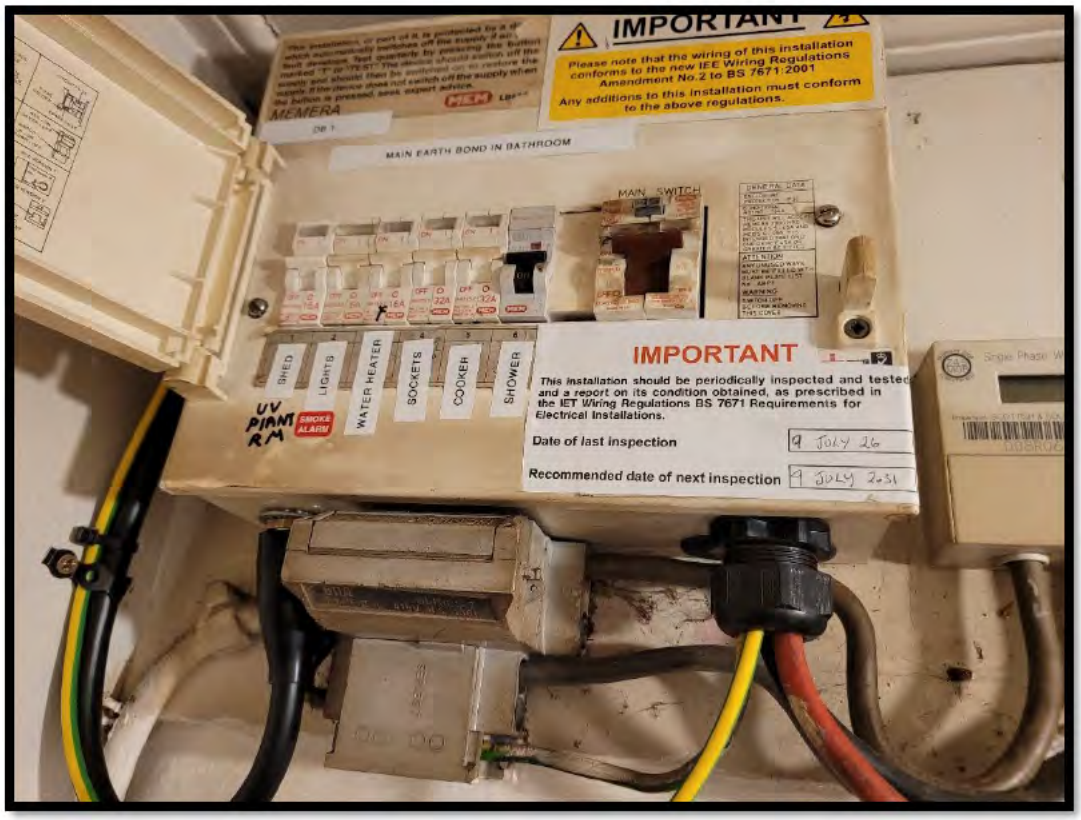
Photograph 6 Bedroom: Mould growth at window, moisture content to wall normal (16%).



Photograph 7 Bedroom: Mould growth lower section of wall.



Photograph 8 Shower room: Mould growth to outer walls, low level. Moisture content normal (15%).



Photograph 9 Inner hallway: Electrical switchgear.