Housing and Property Chamber
First-tier Tribunal for Scotland

Written 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/26/0945

Re: Property at MID BRAE OF SCURDARGUE, RHYNIE, HUNTLY, ABERDEENSHIRE, AB54 4HG ("the Property")

The Parties:

Mr David Patrick ("the Tenant")

Mr George Scott, DRUMNOTH, RHYNIE, HUNTLY, ABERDEENSHIRE, AB54 4HG ("the Landlord")

Aberdeenshire Council, Repair Department, Harlaw Road, Inverurie, AB51 4TE ("the Third Party Applicant")

Tribunal Members: Ruth O'Hare, Legal Member, and Angus Anderson, Ordinary Member

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) The Landlord had failed to provide a satisfactory electrical installation report ("EICR")
(ii) The property did not have smoke detection compliant with current standards.
(iii) The Landlord had failed to evidence the property had carbon monoxide detection compliant with current standards.

3 The application was referred to a tribunal for determination and Notice of Referral was served on the parties. An inspection and hearing was scheduled to take place on 8 October 2026. The tribunal gave notice of the inspection and hearing to the parties.

4 On 28 August 2026 the tribunal received written representations from the Third Party Applicant confirming they would be attending the inspection and hearing.

The inspection

5 The tribunal inspected the property at 10.00am on 8 October 2026. Mr David Patrick, the Tenant was in attendance and permitted access. The Third Party Applicant was represented by Miss MacKay and Mrs Bain.

6 During the course of the inspection the Landlord arrived at the property, having been contacted by the Tenant. He expressed his frustration regarding the involvement of the tribunal and the Third Party Applicant in the matter. He took photographs of the tribunal members and the representatives of the Third Party Applicant without consent and advised that he would send these to his local Member of Parliament. He believed he was being discriminated against because of his age.

7 The property is a detached house, one storey and attic in height. It was constructed upwards of 125 years ago, having been substantially refurbished around 25 years ago. The property is in a remote, rural setting around 2 miles north west of the village of Rhynie, around 35 miles north west of Aberdeen City centre.

8 The main outer walls are of solid stone construction and the roof is pitched and slated. Space heating is provided by fixed electric heaters. There is an enclosed wood burning stove in the lounge. The windows are double glazed.

9 The accommodation comprises on the ground floor: lounge with kitchen on open plan, with open stair to first floor; rear hallway; upper floor; landing; bathroom; and two bedrooms.

10 The inspection was restricted to those items within the application paperwork and commenced with the ground floor accommodation.

11 There is an oil fired range cooker in the kitchen area. No carbon monoxide alarm was found. There is no heat detector. There is a smoke alarm centrally within the ground floor, next to the staircase. The alarm appeared to be of some age, with discolouration and contamination evident. At the lounge end of the ground floor, a carbon monoxide detector was placed on a shelf to the side of the wood burner. The label attached to the alarm indicated that it should be replaced by 2035. At first floor level, there is a smoke alarm of the same type and similar condition to the ground floor smoke alarm. The label affixed to the alarm indicated that it should be replaced by May 2011.

12 The main electrical switchgear is located to the right of the range cooker. The installation appears to date from the time that the building was refurbished, around 25 years ago. There are three consumer units. Only one has a residual current device. The circuits serving the storage heaters were

switched off. The circuit breaker for the lighting circuits and doorbell are rated at 16 amps, as highlighted in the EICR. Within the kitchen area, there is an electrical socket above the sink, as highlighted in the EICR. A label indicates that the smoke alarms were installed on 14 August 2000. There are ceiling mounted down lighters throughout the house. These were not removed for inspection. Outside, the door is missing from the electric meter box. There is a further consumer unit within the outbuilding to the right of the house.

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

The hearing

14 The hearing took place on 21 September 2026 at 2pm by teleconference. The Third Party Applicant was represented by Miss Mackay and Mrs Bain. The Tenant also joined the call. The Landlord did not attend, having indicated during the inspection that he would be unable to do so. The tribunal therefore delayed the start time of the hearing for a short period before determining to proceed in the Landlord's absence.

15 The tribunal explained the purpose of the hearing and summarised the findings from the inspection. The tribunal proceeded to hear evidence from the parties.

16 Miss MacKay advised that she had nothing further to add and agreed with the tribunal's summary of the inspection. Mrs Bain explained that she had inspected the property back in 2025 and had tested the smoke detectors which were not interlinked. There did not appear to be a heat detector in the kitchen area.

17 The Tenant explained that the Landlord had provided portable carbon monoxide detectors. He noted that one had been observed during the inspection. There should be another one, but he did not know where it was. The Tenant and his wife do not use the woodburning stove at present. The Tenant did not know the difference between a carbon monoxide detector and a smoke detector. The Tenant explained that the Landlord had been trying very hard to get an electrician out to the property. The Landlord is nearly 80 years old and the situation is causing him anxiety and stress. The Landlord is a valued part of the community.

18 Miss MacKay explained that the Third Party Applicant had first raised these issues with the Landlord back in 2023. The Landlord had told the Third Party Applicant that he had been trying to get an electrician to address the outstanding matters.

Findings in fact

19 The Landlord and Tenant entered into a tenancy in respect of the property which commenced on 11 November 2023.

20 The tenancy between the parties is a private residential tenancy within the meaning of section 1 of the Private Housing (Tenancies) (Scotland) Act 2016.

21 The property does not have an interlinked system of fire and smoke alarms nor a heat alarm.

22 The property does not have adequate carbon monoxide alarms.

23 The installations in the house for the supply of electricity are not in a reasonable state of repair and in proper working order.

Reasons for Decision

24 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.

25 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*."

26 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.

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

28 The tribunal determined based on the EICR produced and the tribunal's findings from the inspection that the electrical installations within the house are not in proper working order and in a reasonable state of repair. The EICR dated 6 July 2024 identifies several C2 defects that have yet to be addressed by the Landlord.

29 Regarding the fire and smoke detection, the tribunal determined from the findings of the inspection that the smoke detectors on the ground and first floor of the property are time expired and furthermore, are not compliant with Scottish Government Tolerable Standard Guidance which requires smoke and heat alarms to be installed and interlinked. The tribunal further determined that

the evidence of carbon monoxide detection was not sufficient to establish compliance with the guidance on these matters. The tribunal would expect the Landlord to ensure carbon monoxide detectors are fixed in close proximity to the stoves in the kitchen and living area.

30 The tribunal notes that Landlord's frustration with their involvement in this matter. However, the issues raised by the Third Party Applicant clearly raise serious health and safety risks for the Tenant and his wife, particularly the lack of adequate smoke and heat detection in circumstances where the property has evident electrical defects.

31 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)(c), the installations within the property for the supply of electricity are not in a reasonable state of repair and in proper working order.

(ii) In respect of section 13(1)(h), the property does not meet the tolerable standard in that it does not have satisfactory equipment installed for detecting, and for giving warning of, fire or suspected fire and does not have satisfactory equipment installed for detecting, and for giving warning of, carbon monoxide present in a concentration that is hazardous to health.

32 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.

33 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 appeal is abandoned or determined.

RUTH O'HARE

19 October 2026

Legal Member/Chair **Date**

Housing (Scotland) Act 2006

MID BRAE OF SCURDARGUE, RHYNIE, HUNTLY, ABERDEENSHIRE, AB54 4HG

Chamber Reference: FTS/HPC/ RT/26/0945

Repairs Inspection: Schedule of Photographs

Inspection Date: 08/10/2026



Photograph 1 Front Elevation.



Photograph 2 Kitchen area – overview.



Photograph 3 Kitchen area – electrical apparatus.



Photograph 4 Kitchen sink – electrical outlet above sink



Photograph 5 Lounge area- enclosed wood burner with CO alarm in alcove.



Photograph 6 Lounge area – CO alarm expiry date 04/2035.



Photograph 7 Ground floor – Smoke alarm.



Photograph 8 First floor landing –Smoke alarm.



Photograph 9 Exterior meter box



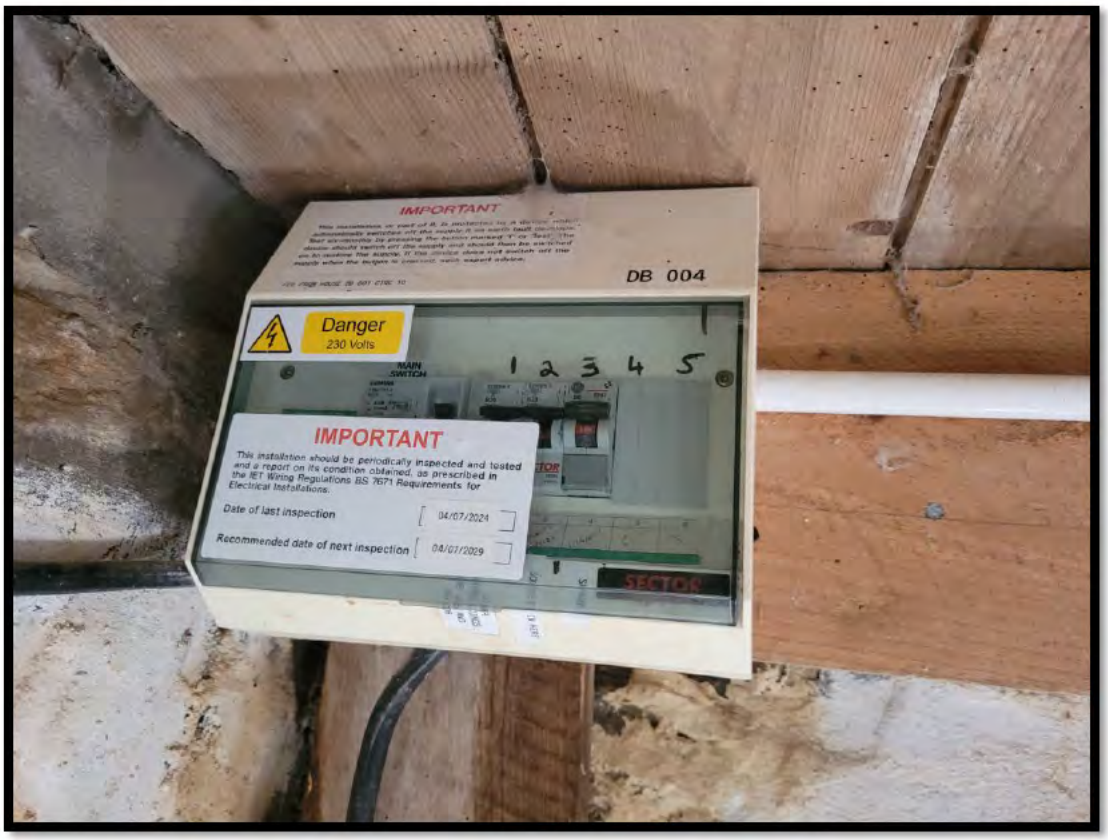
Photograph 10 Rear elevation.



Photograph 11 Outbuilding.



Photograph 12 Outbuilding interior..



Photograph 13 Outbuilding – Consumer unit.