



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland  
(Housing and Property Chamber) in terms of Section 24(1) of the Housing  
(Scotland) Act 2006**

**Reference number: FTS/HPC/RP/22/1116**

**Re: Property at Flat 3/2, 95 Kilmarnock Road, Shawlands, Glasgow G41 3YR  
("Property")**

**The Parties:**

**Adam Murray, Flat 3/2, 95 Kilmarnock Road, Shawlands, Glasgow G41 3YR  
("Tenant")**

**BlaneField Holdings Limited, 9A High Street, Stewarton, Kilmarnock KA3  
5BP("Landlord")**

**Stewart Residential, 9A High Street, Stewarton, Kilmarnock KA3 5BP  
("Landlord's Representative")**

**Tribunal Members :**

**Joan Devine (Legal Member); Greig Adams (Ordinary Member)**

**DECISION**

The Tribunal determined that the Landlord has failed to comply with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 ("the Act") in relation to the Property in respect that the Property does not meet the Repairing Standard in respect of Section 13(1)(a) and (b) of the Act. The Tribunal therefore issues a repairing standard enforcement order. The Tribunal's decision is unanimous.

**Background**

1. By application dated 19 April 2022, the Tenant applied to the Tribunal for a determination that the Landlord had failed to comply with their duties under Section 14(1) of the Act.
2. In the application, the Tenant stated that he believed that the Landlord had failed to comply with their duty to ensure that the Property met the repairing standard as set out in Sections 13(1)(a) and (b) of the Act. The Application stated that:
  - There was a large structural crack in the Property that was exposed and allowing birds to nest inside the wall next to a main bedroom.

3. The Application was referred to the Tribunal and an inspection and Hearing were fixed for 23 June 2022.

#### The Inspection

4. The Tribunal inspected the Property on the morning of 23 June 2022. The weather conditions at the time of the inspection were clear and dry. The Tenant was present at the Property during the inspection. The Property is a third floor flat within a 3 storey tenement building. The inspection summary with a schedule of photographs is attached.

#### The Hearing

7. The Hearing took place on 23 June 2022 by conference call. The Tenant was in attendance. Sharon McCourt of the Landlord's Representative attended on behalf of the Landlord.
8. Miss McCourt told the Tribunal that the Factor for the Property was Cummings Turner and Watt. She said that Abbey Services had carried out a survey of the Property and had proposed various works to the gable wall. She said that the estimated cost of the works was £14,136 (including VAT). She said that the Factor was ingathering funds from 8 owners. She did not know what progress had been made in that regard. She said that Glasgow City Council had also inspected the Property and were of the view that repairs were required. She said that she had found the individual dealing with the Property at the Factor difficult to get hold of. She had complained to the director, Robert Watt, and that had resulted in a meeting on site. In response to a question from the Tribunal Miss McCourt said that she was not aware of any proposed internal remediation.

#### The Evidence

9. The evidence before the Tribunal consisted of:
  - 9.1 The Application completed by the Tenant
  - 9.2 Residential Tenancy Agreement between the Landlord and the Tenant dated 29 January 2020
  - 9.3 Copy emails between the Tenant and the Landlord's Representative
  - 9.4 Estimate from Abbey Services (Estimate No. 949 dated 17 April 2022)
  - 9.5 The Tribunal's inspection of the Property
  - 9.6 The oral representations of the Tenant and the Landlord's Representative

### Summary of the Issues

10. The issue to be determined was whether the Property meets the repairing standard as set out in Section 13 of the Act and whether the Landlord had complied with the duty imposed on them by Section 14(1)(b).

### Findings in Fact

11. Tribunal made the following findings in fact:

11.1 The Tenant has lived in the Property since 29 January 2020.

11.2 The tenancy is a tenancy of a house let for human habitation, which does not fall within the exceptions set out in Section 12(1) of the Act. The provisions set out in Chapter 4 of the Act therefore apply.

11.3 The Tribunal in its inspection carefully checked the items which were the subject of the application. The Tribunal observed the following:

11.3.1 Outside the Property the Tribunal noted on the gable wall failed cement based repairs and pointing as well as eroded sandstone.

11.3.2 Inside the Property the Tribunal noted structural cracking.

### Reasons for Decision

12. Following its inspection and the hearing, the Tribunal determined that the Property does not meet the repairing standard as required by Section 13(1)(a) and (b) of the Act. There was structural cracking inside the Property and failed cement based repairs and pointing on the gable wall. There was also eroded sandstone on the gable wall.

### Decision

13. The Tribunal determined that the Landlord has failed to comply with the duty imposed by Section 14(1)(b) of the Act, and in particular that the Landlord has failed to ensure that the Property meets the repairing standard in that (a) the Property is not wind and watertight and in all other respects reasonably fit for human habitation and (b) the structure and exterior of the Property is not in a reasonable state of repair and in proper working order.
14. The Tribunal therefore makes a repairing standard enforcement order as required by Section 24(2) of the Act.

### **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.**

**8 July 2022**

# Housing and Property Chamber

## First-tier Tribunal for Scotland

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### First-tier Tribunal for Scotland (Housing and Property Chamber)

#### Inspection Report

Chamber Ref: FTS/HPC/RP/22/1116



#### THE PROPERTY:

Flat 3/2, 95 Kilburn Road, Shawlands, Glasgow G41 3YR ("Property").

#### THE PARTIES:

Adam Murray, Flat 3/2, 95 Kilburn Road, Shawlands, Glasgow G41 3YR ("Tenant").

Blanchfield Holdings Limited, 9A High Street, Stewarton, Kilburn KA3 5BP ("Landlord").

Stewart Residential, 9A High Street, Stewarton, Kilburn KA3 5BP ("Landlord's Representative").

#### THE TRIBUNAL:

The First-tier Tribunal for Scotland (Housing and Property Chamber) Tribunal Members:

Joan Devine (Legal Member); Greig Adams (Ordinary Member).

#### Background:

By application signed and dated 19 April 2022 ("the Application"), the Tenant applied to the First-tier Tribunal for Scotland (Housing & Property Chamber) for a determination that the Landlord has failed to comply with the duty imposed on it by

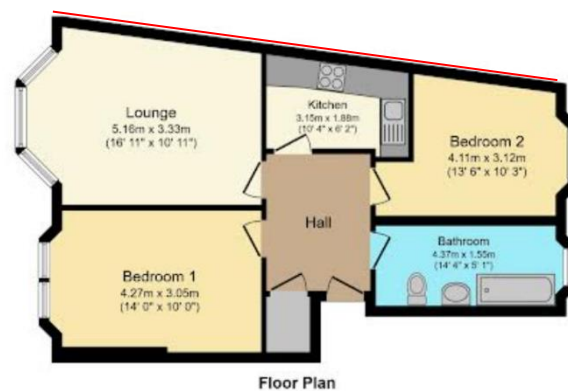
Section 14(1) of the Housing (Scotland) Act 2006 ("the Act") Act in respect that the Property does not meet the Repairing Standard in respect of Section 13(1) (a) and (b) of the Act.

**Access:**

The inspection was undertaken on Thursday 23 June 2022 by the Tribunal Members. The inspection extended to an inspection of the various items of complaint comprising part of the Application.

**Brief Description of Property:**

The Property comprises a third-floor residential flat contained within a traditional sandstone construction tenement property. The subjects comprise of a 2-bedroom flat, the gable wall is highlighted in red for reference purposes.



**Purpose of Inspection:**

The purpose of the inspection was to allow the Tribunal members to review the tenant's disrepair complaint prior to the Hearing also scheduled for Thursday 23 June 2022.

**The inspection:**

A visual non-disruptive inspection was undertaken from external ground level (both from the front pedestrian pathway and the rear access lane) to review the gable wall and a simple walk-through inspection was undertaken internally within the flat.

## 1. Gable Wall

There was evidence of historic and inappropriate cement-based repair and render that had been partially applied over exposed stonework serving the gable elevation and chimneystack. Inappropriate cement-mortar pointing is also evident which has resulted in accelerated decay of the stonework.



There are also areas of cement-based repairs that have noticeably de-bonded from the elevation and either are suffering from adhesive failure or more likely cohesive failure in the stone substrate below. The worst affected areas of stone are marked in red to assist the reader, although not exhaustive of the full extent of the issues highlighted.

There are also areas of isolated displaced cement-based repairs which have fallen from the building leaving exposed the previous underlying eroded sandstone substrate. In 1 No. area a noticeable void was noted through the rubble stonework solid wall.





## 2. Internally

There was noted to be significant cracking of a significant width evident indicative of structural movement noted across a number of rooms however, most prominently within the Kitchen and Bedroom 2.



An area of discolouration was also noted towards the gable wall to ceiling junction within Bedroom 2.



This report will be submitted to the relevant parties for their consideration.



Greig Adams BSc (Hons) FRICS C. Build E FCABE LETAPAEWE  
Surveyor Member  
**First-tier Tribunal for Scotland (Housing and Property Chamber)**





## Appendix A – Photographic Record



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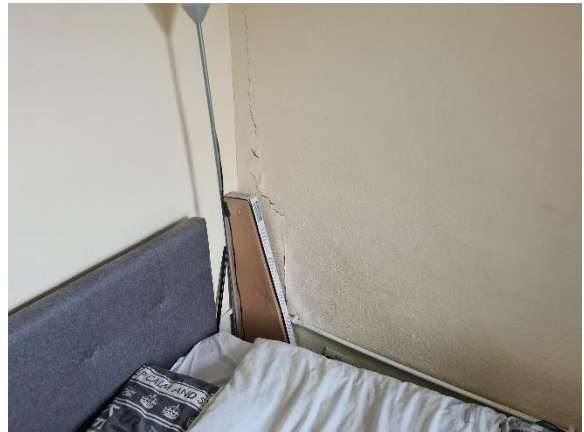
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