



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

**Chamber Ref: FTS/HPC/RP/22/1502**

**Re: Property at 87 Gatehead Road, Crosshouse, Kilmarnock, East Ayrshire, KA2  
0JH (“the Property”)**

**Parties:**

**Mr David Reilly (“the Applicant”)**

**Mrs Irene Fowler, 1 Plann Road, Kilmarnock, KA2 0EN (“the Respondent”)**

**Slater, Hogg and Howison, 3rd Floor, 26 Springfield Court, Glasgow, G1 3DQ  
 (“the Respondent’s Representative”)**

**Tribunal Members:**

**Martin McAllister (Legal Member) and Donald Wooley, Chartered Surveyor,  
(Ordinary Member) (“the tribunal”)**

**Decision**

**The tribunal made a repairing standard enforcement order in terms of Section  
24(2) of The Housing (Scotland) Act 2006.**

**Background**

1. By application dated 18<sup>th</sup> May 2022, the Applicant applied to the Housing and Property Chamber of the First-tier Tribunal for Scotland for a determination of whether the Landlord has failed to comply with the duties imposed by Section 14 (1) (b) of the Housing (Scotland) Act 2006 as amended (the 2006 Act). The application is in terms of Section 22 (1) of the 2006 Act (“the 2006 Act.”)
2. The application states that the Property does not meet the repairing standard set out Section 13 of the 2006 Act: that the Property is not wind and watertight and in all other respects reasonably fit for human habitation, that any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order and that the Property does not meet the tolerable standard. Specifically, the application states that

the Landlord has failed to remedy dampness, mould and condensation in the Property, that there is dampness and mould in the porch, bathroom, living room, bedrooms and kitchen. The application states that the majority of kitchen units are unusable and that mould odour is becoming unbearable.

3. On 21<sup>st</sup> June 2022, a Notice of Acceptance was issued by a legal member of the Tribunal acting under delegated powers of the Chamber President.

#### Property Inspection

4. The members of the tribunal inspected the Property on 30<sup>th</sup> August 2022 and a copy of the ordinary member's inspection summary and schedule of photographs is attached to this Decision

#### The Hearing

5. A Hearing was held by audioconference on 30<sup>th</sup> August 2022. The Applicant was present together with Pamela Hale, his co-tenant. The Respondent was represented by Paula Neeson and Scott Singh of the Respondent's Representative.

#### Findings

6. The tribunal considered the relevant elements of the repairing standard as set out in the 2006 Act and it found that the House fails to meet it.

#### Reasons

7. Prior to the Hearing, the Respondent's Representative had submitted a report and proposal from Peter Cox, dampness specialists, dated 15<sup>th</sup> August 2022. Mr Singh directed the tribunal to the contents of the report and he said that the Respondent had made the decision to instruct Peter Cox to carry out the works recommended in the report. He said that it had been decided to obtain the report on the recommendation of a roofing contractor who had been instructed to determine whether or not dampness in the Property was as a result of an issue with the roof.
8. It was pointed out to Mr Singh that the Peter Cox report did not refer to the living room being inspected. He said that this may have been an oversight and that he would request that the report be updated.
9. The tribunal also noted that the report did not refer to the porch or apparent lack of ventilation such as by trickle vents in the windows.

10. Mr Singh did not know when the "patched repairs" to the external rendering had been carried out. Mr Reilly said that he had supplied the owner of the flat above the Property with PVA/bonding agent to assist in the repairs which were carried out. He agreed that the repairs were directly above the corner of the kitchen in the Property where there is damp staining. He said that, since the repairs had been done, the damp staining above the wall mounted kitchen unit had got no worse but that the staining inside the unit had got worse. He said that the repairs had been done sometime around the beginning of 2022 and he said that they involved taking off the faulty rendering, applying PVA agent and re-rendering.
  
11. The tribunal relied on the contents of the inspection report attached to the Decision and the levels of damp disclosed by meter readings.
  
12. Mr Reilly said that he wanted it noted that he did not want to make trouble for his landlord but that he just wanted the matters resolved because he was happy living in the Property.
  
13. Mr Singh indicated a willingness of the Respondent to deal with the issues.
  
14. The tribunal determined to make a repairing standard enforcement order in the following terms:
  - 14.1 The Respondent is to obtain a detailed report from a suitably qualified timber and damp treatment contractor confirming both the extent and the source of the dampness and mould throughout the property, together with any remedial action necessary to eradicate the problem. The report should include a detailed specification on any additional ventilation required to address the issue in the main bedroom (rear room right), the living room, the kitchen including wall mounted cupboards, and bathroom within the property. The report should be submitted to the Tribunal.
  
  - 14.2 The Respondent is to complete all recommended repairs in accordance with the specification recommended and redecorate as required.
  
  - 14.3 The Respondent is to replace or repair the lining of the kitchen units which are affected by dampness and/or mould.

The works required by the repairing standard enforcement order require to be completed by 31<sup>st</sup> October 2022.

## **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.**

**M J.McAllister  
Legal Member  
5<sup>th</sup> September 2022**