



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

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

**Chamber Ref: FTS/HPC/RT/22/4067**

**21 Alva Crescent, Fraserburgh,**

**Aberdeenshire AB43 9RW ("the House")**

**The Parties:-**

**Aberdeenshire Council, Infrastructure Services**

**(Housing) Gordon House, Blackhall /Road,**

**Inverurie, Aberdeenshire AB51 3WA ("the Third**

**Party Applicant")**

**Mr Robert Cumming, 21 Alva Crescent, Fraserburgh,  
Aberdeenshire AB43 9RW ("the Tenant")**

**Mr David Scothern, 14 Houghton Close, Asfordby Hill, Melton  
Mowbray, Leicestershire LE14 3QL**

**The Tribunal:-**

**Graham Harding (Legal member)  
Andrew Murray (Ordinary Member)**

**DECISION**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal"), having made such enquiries as it saw fit for the purposes of determining whether the Landlord has complied with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 ("the Act") in relation to the House, determined that the Landlord had not failed to comply with the duty imposed by Section 14 (1)(b) of the Act and therefore that no Repairing Standard Enforcement Order**

**requires to be made.**

## **Background**

1. By application dated 7 November 2022 the Third Party Applicant complained to the Tribunal that the property did not meet the Repairing Standard in that the Landlord had failed to ensure that:-
  - a) The house is wind and watertight and in all other respects reasonably fit for human habitation; and
  - b) Any fixtures fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order.

The Third Party Applicant submitted that screws in the sitting room window should be removed and hinges repaired or replaced to allow the window to open and close for ease of ventilation and be made wind and watertight. The Third Party Applicant also complained that the front and back doors required new locks and be made wind and watertight and that the bathroom toilet leak be identified and a repair undertaken to remedy the problem.

The Third Party Applicant submitted a copy of the notification to the Landlord together with photographs and a copy of the tenancy agreement in support of the application.

2. By Notice of Acceptance dated 16 November 2023 a legal member of the Tribunal with delegated powers accepted the application and an inspection and hearing were assigned.
3. By email dated 15 February 2023 the Landlord submitted written representations to the Tribunal.
4. By email dated 28 February 2023 the Third Party Applicant submitted further written representations to the Tribunal.
5. By email dated 28 February 2023 the Landlord's representatives, Forbes Property, Fraserburgh, submitted written representations on behalf of the Landlord.
6. An inspection was carried out by the Tribunal on 21 April 2023. The Third Party Applicant was represented by Ms Emma Bain. The landlord did not attend nor was he represented. The Tenant's wife was in attendance.

## **The Hearing**

7. A hearing was conducted by teleconference following the inspection. The Third Party Applicant was represented by Ms Bain. The Landlord was in attendance and was represented by Mr Forbes.
8. The parties were agreed that repairs had been carried out to the property. The doors had been fitted with new locks and handles. The Tribunal noted that at the inspection the door locks had not been engaging. Mr Forbes advised the Tribunal that he could not understand why this would be the case and that no fault had been reported but he would arrange for the locks to be looked at again. Ms Bain suggested that there was still a leak from the toilet cistern. Mr Forbes advised the Tribunal that a plumber had attended and any leak had been repaired. However, he would arrange for the plumber to re-attend to check if there was still a leak. He also undertook to carry out a personal inspection.
9. With regards to the sitting room window being screwed shut, Mr Forbes explained that it had proved difficult to source replacement parts but that the other window was operating normally and provided adequate ventilation. The landlord suggested that the window would have been replaced if the Tenant had not owed so much rent. He said that he thought all the other repairs had been completed. Ms Bain submitted that the window was not in proper working order.
10. As Mr Forbes had undertaken to have contractors look again at the property the Tribunal indicated it would defer issuing its decision until it heard back from the parties.
11. By email dated 11 May 2023 Ms Bain confirmed that the issues with the leaking toilet and locks had been resolved but that the sitting room window was still screwed shut.
12. By email dated 15 May 2023 Mr Forbes also confirmed that the leak in the toilet and the locks had been repaired.

## **Findings in Fact**

13. The parties entered into a private residential tenancy that commenced on 18 March 2022.
14. The Landlord has arranged for repairs to the property to be carried out in response to Third Party application to the Tribunal.
15. The issues with regards to the external doors and bathroom toilet have been resolved.

16. One window in the sitting room is screwed shut. The other window operates normally.

### **Reasons for Decision**

17. The Tribunal was satisfied that the Landlord had addressed all of the issues complained about with the exception of one of the sitting room windows being screwed shut and therefore not capable of being opened. The Tribunal noted that the Landlord's contractors were having difficulty sourcing replacement parts for the window. The issue for the Tribunal to determine was whether in all the circumstances, given that there was in the room another fully operational window, it was necessary for the window to be fully operational as it appeared to be wind and watertight. The Tribunal accepted that the operational window provided the room with adequate ventilation. Therefore, the Tribunal was satisfied that the house met the repairing standard.

### **1. Right of Appeal**

**A landlord, tenant or third party applicant 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.**

In terms of Section 63 of the Act, where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally 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 so determined.

Signed Graham Harding  
Legal Member of the Tribunal

Date: 26 May 2023