

# Housing and Property Chamber

## First-tier Tribunal for Scotland

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

**STATEMENT OF DECISION: Housing (Scotland) Act 2006 Section 24 (1)**

**Chamber Ref: FTS/HPC/RT/23/4600**

**11D Galvelmore Street, Crieff, Perthshire PH7 4BY  
("The Property")**

**The Parties:-**

**Perth and Kinross Council, Private Sector Access Team, Pullar House,  
35 Kinnoull Street, Perth PH1 5GD (" the Third Party Applicant")**

**Mrs Ilona Tymoszhenko, 11D Galvelmore Street, Crieff PH7 4BY ("the  
Tenant")**

**1M12 Limited, represented by Mr Jamie MacPherson, 84 Angusfield  
Avenue, Aberdeen AB15 6AT ("the Landlord")**

**Tribunal Members**

**Graham Harding (Legal Member)**

**Robert Buchan (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) in relation to the house concerned, and taking account of the evidence led by the Third Party Applicant at the hearing, determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.**

**Background**

- 1. By application dated 14 December 2023 the Third Party Applicant applied to the Housing and Property Chamber for a determination of whether the Landlord had failed to comply with the duties imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 ("the Act").**
- 2. The application stated that the Third Party Applicant considered that the Landlord had failed to comply with their duty to ensure that the house meets the repairing standard and in particular 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;
- (b) The structure and exterior of the house (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order;
- (c) The house has satisfactory provision for detecting fires and giving warning in the event of fire or suspected fire; and
- (d) That the house met the tolerable standard.

Specifically the Third Party complained that:-

The skylight in the property was leaking;

There were gaps under the skirting in the kitchen causing draughts;

The roof was leaking causing water to enter at various points within the property;

The pointing was defective as were the roof coverings;

There was damp throughout the property causing moisture staining and salt affected plaster work;

There was no heat detector in the kitchen; and water was entering through the light sockets in the kitchen ceiling.

- 3. The Tribunal served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon the Landlord on 14 February 2024.
- 4. Following service of the Notice of Referral. The Landlord's representative by email dated 11 March 2024, made written representations to the Tribunal.
- 5. The Landlord's representative submitted further written representations on 15 March and 4, 7 and 10 June 2024.
- 6. The Tribunal inspected the Property on the morning of 11 June 2024. The Tenant and Mrs Kayley Halgarth-Myles from the Third Party were in attendance. The Landlord's representative did not attend. The Ordinary Member of the Tribunal took photographs of the property which are attached as a schedule to this decision.
- 7. Following the inspection of the Property the Tribunal held a hearing at The Inveralmond Business Centre, Perth and heard from the Third Party's representative. Neither the Landlord's representative nor the Tenant were in attendance.

### **The Hearing**

8. The Tribunal noted from its inspection that it had observed that:-

Significant vegetation growth could be seen on the front wall and rear stacks.

Pointing is soft, loose and open in various places.

A damp stain on the front wall indicates that rainwater has been overflowing from the old guttering and has been for a long time. Viewed from a window above, the guttering could be seen to be choked.

Rainwater gutters were also choked and poorly aligned at the rear of the property.

There are various indications that the roof is "nail sick" – many replaced slates of different ages and size, some held in place by lead strips, cracked and chipped slates, uneven-ness, debris of broken slates in the gutters.

The internal front door to the flat has no draughtproofing.

Internally there are many stains on walls and ceilings indicating extensive rainwater penetration including directly around the heat detector and light fitting in the kitchen. Most were dry on inspection, including in the kitchen but high instrumental moisture meter readings in the bedrooms indicated that there is still significant dampness in the property.

There is an old metal framed single glazed skylight above the landing. This is rusting and there are signs of rainwater and/or condensation below.

A small gap could be seen below the skirting board in the kitchen.

9. The Tribunal was made aware by Mrs Halgarth-Myles that the Tenant was in the process of moving out of the property into local authority accommodation but she did not know the exact date the tenancy was due to end.
10. Although it was apparent that some repairs to the property had been undertaken as referred to in the written representations submitted on behalf of the Landlord it was clear from the observations made by the Tribunal that further significant works required to be undertaken at the property for it to meet the repairing standard. Mrs Halgarth-Myles advised that because of the loose slates, on one occasion the Fire Service was called to remove slates and debris sitting in the gutters as it was thought that they posed a danger to the public.
11. For the Third Party, Mrs Halgarth-Myles submitted that it would be appropriate for the Tribunal to make a Repairing Standard Enforcement Order ("RSEO").

### **Findings in Fact**

12. There is significant vegetation growth on the front wall and rear stacks. Pointing is soft, loose and open in various places.

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14. A damp stain on the front wall indicates that rainwater has been overflowing from the old guttering and has been for a long time. Viewed from a window above, the guttering could be seen to be choked.

15. Rainwater gutters were also choked and poorly aligned at the rear of the property.

16. There are various indications that the roof is "nail sick" with many replaced slates of different ages and size, some held in place by lead strips, there are also cracked, chipped and uneven slates, with debris of broken slates in the gutters.
17. The internal front door to the flat has no draughtproofing.
18. Internally there are many stains on walls and ceilings indicating extensive rainwater penetration including directly around the heat detector and light fitting in the kitchen. Most were dry on inspection, including in the kitchen but high instrumental moisture meter readings in the bedrooms indicated that there is still significant dampness in the property.
19. There is an old metal framed single glazed skylight above the landing. This is rusting and there are signs of rainwater and/or condensation below.
20. A small gap could be seen below the skirting board in the kitchen.
21. The Landlord has carried out some repairs to the property and there is no visible sign of water ingress in the kitchen.
22. There is a functioning smoke detector in the kitchen.

### **Reasons for the decision**

23. The Tribunal acknowledged that the Landlord had since the application was submitted to the Tribunal carried out some remedial works at the property and it was no longer in as bad a condition as it had been when the application was made. However, The Tribunal observed that the roof of the property was still in significant need of repair and it was apparent from the high moisture readings particularly in the bedrooms that there were ongoing problems with water ingress that need attention. The skylight above the landing was also still leaking and in need of repair or replacement. The Tribunal noted that it was the Landlord's intention to sell the property in the near future but that is not a circumstance that would affect the Tribunal's decision-making process. The Tribunal took account of the documents submitted by the Third Party. A comprehensive report by Wise Property Care with accompanying photographs detailed the dampness and the apparent length of time that the interior had been affected. Quotations by Pankhurst Decorators Ltd and Scott Cramb Construction Ltd agree that extensive repairs are required to the roof and Pankhurst goes so far as to state that "The roof requires to be stripped of all slates" and they quote for a complete strip and reslate. Whilst the Landlord has perhaps understandably opted for a cheaper, partial repair, the Tribunal considers that this can only be regarded as a temporary "fix"

and in any event it has not prevented continued dampness in the property. The Tribunal was not satisfied that the remedial works carried out to date would provide a lasting repair sufficient to ensure that the property met the repairing standard.

### **Decision**

24. The Tribunal accordingly determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.
25. The Tribunal proceeded to make a Repairing Standard Enforcement Order as required by section 24(1).
26. The decision of the tribunal was unanimous.

### **Right of Appeal**

27. **A landlord, tenant or third party applicant aggrieved by the decision of the tribunal may seek permission to appeal from the First-tier Tribunal on a point of law only within 30 days of the date the decision was sent to them.**

### **Effect of section 63**

28. Where such an appeal is made, the effect of the decision and of the order is suspended until the appeal is abandoned or finally determined, and where the appeal is abandoned or finally determined by confirming the decision, the decision and the order will be treated as having effect from the day on which the appeal is abandoned or so determined.

G Harding

Signed        Graham Harding

Date            14 June 2024

Chairperson

Photographs taken during the inspection of 11D Galvelmore Street, Crieff, PH7 4BY  
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Front



Stack

Photographs taken during the inspection of 11D Galvelmore Street, Crieff, PH7 4BY  
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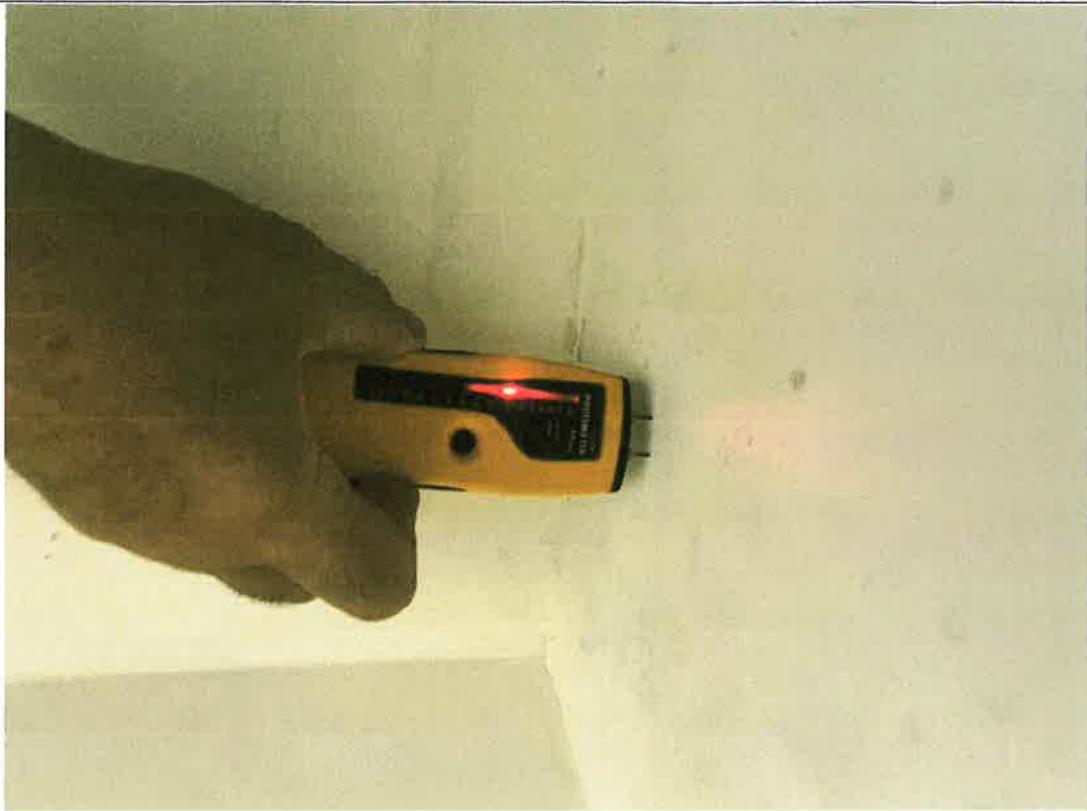
Photographs taken during the inspection of 11D Galvelmore Street, Crieff, PH7 4BY  
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Heat detector



Gap below the skirting in the kitchen

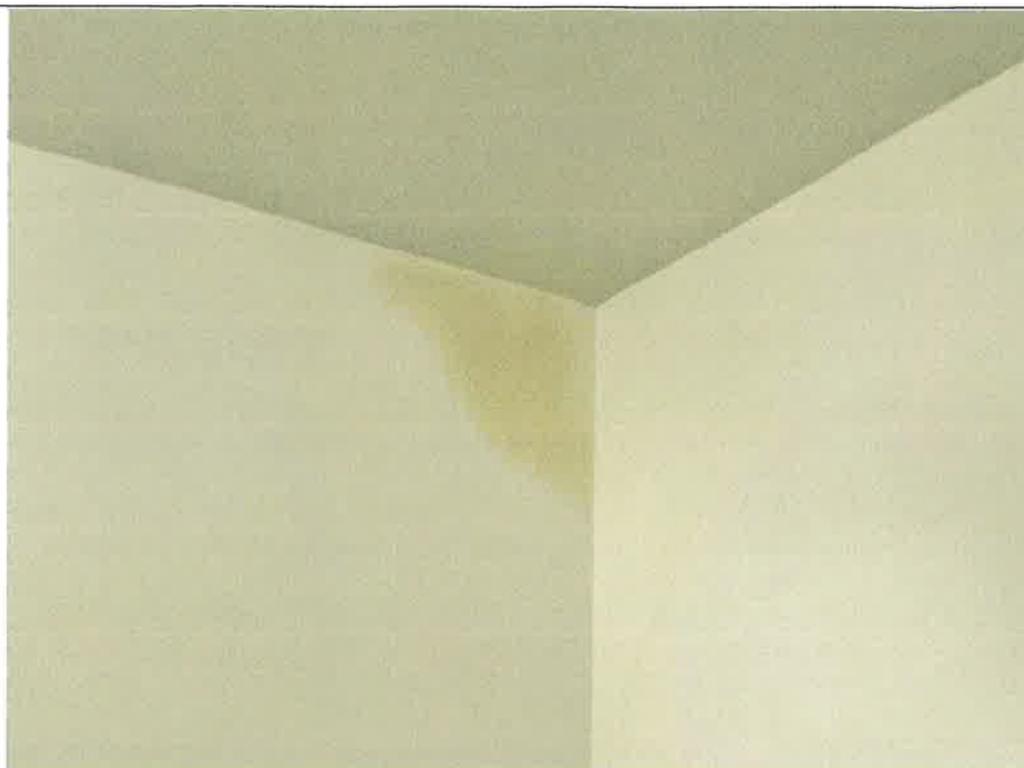


Dampness in the front bedroom



Signs of dampness below the skylight window

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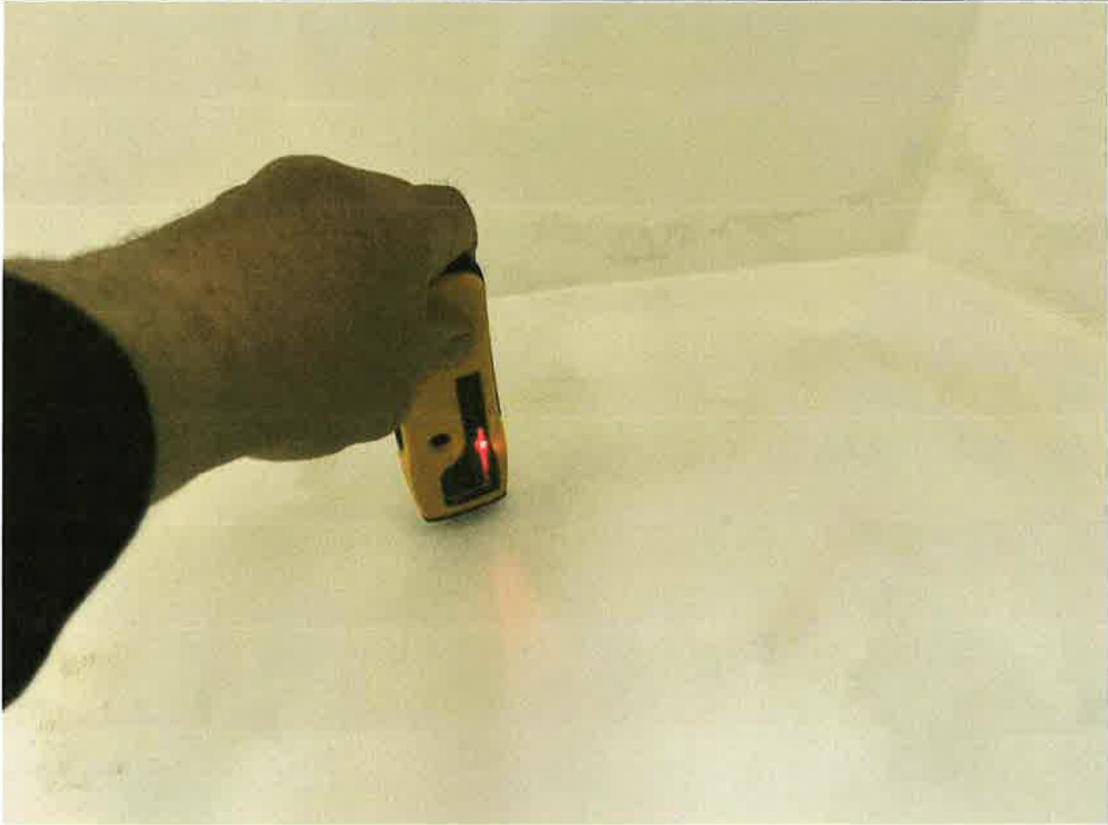
Damp stain in the rear bedroom....

Photographs taken during the inspection of 11D Galvelmore Street, Crieff, PH7 4BY  
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...registering high damp readings

Photographs taken during the inspection of 11D Galvelmore Street, Crieff, PH7 4BY  
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Many stains and high damp readings in bedroom cupboard



No draughtproofing on the front door

Photographs taken during the inspection of 11D Galvelmore Street, Crieff, PH7 4BY  
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Choked guttering

Photographs taken during the inspection of 11D Galvelmore Street, Crieff, PH7 4BY  
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Part of the rear roof