

Housing and Property Chamber First-tier Tribunal for Scotland



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

Determination: Housing (Scotland) Act 2006: Sections 26 and 27

106 Carron Place, Irvine, North Ayrshire, KA12 9NE, registered in the Land Register of Scotland under title number AYR13282 (“the Property”)

Case Reference FTS/HPC/RP/25/1678

Ms Shona Alexander (deceased), formerly 106 Carron Place, Irvine, North Ayrshire, KA12 9NE (“The Applicant” and The Former Tenant”)

Mr Robert Hall, 29 Goukscroft Park, Ayr, South Ayrshire, KA7 4DS (“The Landlord”)

Mrs Gwendolyn Hall, 29 Goukscroft Park, Ayr, South Ayrshire, KA7 4DS (“Interested Party”)

Tribunal Members – Martin McAllister (Legal Member) and Donald Wooley (Ordinary Member)

Tribunal Members:

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

Decision

The tribunal determined:

(One) that the Landord has failed to maintain the Property to the repairing standard as set out in Section 13 of the Housing (Scotland) Act 2006 and

(Two) that a repairing standard enforcement order (RSEO) be made in terms of Section 24 of the Housing (Scotland) Act 2006.

Background

1. By application dated 17April 2024, 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 (1A) of the 2006 Act.

2. The application was accepted for determination on 13 May 2025.
3. The Applicant and the Respondent were parties to a short assured tenancy agreement dated 29 October 2015.
4. Subsequent to the submission of the Application, the Tribunal was advised that the Applicant had died on 22 May 2025.
5. The tenancy was brought to an end upon the death of the Applicant and accordingly, under Schedule 2, Paragraph 7(1) of the 2006 Act, the application was treated as having been withdrawn under Section 22(1) of the 2006 Act.
6. The tribunal considered the application in terms of Schedule 2, Paragraph 7 (3) of the 2006 Act and decided to continue to determine it.
7. The tribunal issued a Minute of Continuation dated 24 September 2025 and this was intimated to the Landlord.

The Application

8. The application states that the Property does not meet the repairing standard set out Section 13 of the 2006 Act: it states that the House is not wind and watertight and in all other respects reasonably fit for human habitation, that 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 and that fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order.
9. The application makes specific reference to the following matters:
 - 9.1 A window in the living room does not fit the frame and needs to be pushed from outside to close.
 - 9.2 Leaking radiator in living room.
 - 9.3 Living room plug socket hanging from wall.
 - 9.4 Front and rear external doors are in poor condition and are not wind and watertight. Both locks stick frequently are difficult to secure.
 - 9.5 Ceiling in hall dips.
 - 9.6 Upper floor ceilings not fully sealed to walls.
 - 9.7 Kitchen ceiling dips and has missing panel following a leak from the bathroom.
 - 9.8 Kitchen worktops and cupboards are swollen as a consequence of a water leak.
 - 9.9 Linoleum flooring in kitchen has an area which constitutes a tripping hazard.
 - 9.10 Plug socket situated under kitchen sink which is suspected to be unsafe.
 - 9.11 Water leaks from the bathroom into the kitchen when the shower is used.
 - 9.12 Bathroom sink does not drain correctly.
 - 9.13 Area around bathroom sink is water damaged.

- 9.14 Window in back bedroom 1 does not close correctly.
- 9.15 The radiator in back bedroom 1 leaks.
- 9.16 The light in back bedroom 1 does not work
- 9.17 A double socket in back bedroom 1 does not work.
- 9.18 The window is broken in back bedroom 2 and the window does not close properly.
- 9.19 The window in the front bedroom does not close properly
- 9.20 The tenant does not have a copy of the Electrical Installation Condition Report.
- 9.21 The tenant does not have a copy of the Gas Safety Certificate.

Property Inspection

- 10. The members of the tribunal inspected the Property at 10 am on 8 October 2025. The Landlord was present. Access was granted by Mr Robert Alexander who currently resides in the Property.
- 11. A schedule of photographs and site observations, prepared by the Ordinary Member, is attached to this Decision and is referred to for its terms.

Findings on Inspection

- 12. The Property is an ex local authority two -storey terraced property. The accommodation comprises of a living room, three bedrooms, a bathroom and a kitchen.
- 13. The top right- hand corner of the living room window fails to close properly, leaving a considerable gap.
- 14. There was no evidence of a leaking radiator in the living room.
- 15. There was no evidence of a plug socket in the living room hanging from the wall.
- 16. The rear door has been replaced since the application was submitted. It was found to be operating satisfactorily.
- 17. There was no key available for the front door. There is a gap between the door and the door frame.
- 18. There is a sag in the hall ceiling which is cosmetic and there is no evidence of it being caused by water damage.
- 19. There is minor separation and shrinkage cracking on the upper landing at the junction of internal wall heads and ceiling.
- 20. There is no evidence of a dip in the kitchen ceiling or a missing panel. There is evidence of renewal work having been recently carried out to the ceiling.

21. There is a suspended light pendant in the kitchen which is not properly secured.
22. The kitchen worktops and cupboards display evidence of significant wear and tear which reflects their age. There is cosmetic damage but they remain functional.
23. There is no evidence of ongoing or recent water penetration in the kitchen from the upstairs bathroom.
24. The linoleum flooring in the kitchen is ruptured and constitutes a tripping hazard.
25. An electrical power point is situated below pipework in the under-sink cupboard.
26. There is no bath plug in the bathroom sink but it drains satisfactorily.
27. The area surrounding the bath has been sealed but shows considerable evidence of mould. The seal between the bath and walls appears to be functioning satisfactorily.
28. The area between the sink and the WC shows evidence of previous water "spillage."
29. There is a cracked window pane in back bedroom 1. The window closing mechanism is functional.
30. The radiator in back bedroom 1 has a broken side panel and there is evidence of a leak at its valve.
31. The ceiling light in back bedroom 1 does not work. There was no light bulb and Mr Alexander provided a light bulb which he said was working. It was fitted to the light pendant but it still did not work.
32. A double plug socket could not be found in back bedroom 1 although there was a considerable amount of furniture in the room. Mr Alexander stated that, as far as he was aware, all electrical sockets in the room were functional.
33. The window in back bedroom 2 has been recently renewed and is fully functional.
34. The window in the front bedroom has been recently renewed and is fully functional.

Hearing

35. A hearing was conducted at Ardeer Community Centre, Stevenston at 12 pm. It was attended by Mr Hall.

Preliminary Issues

36. Mr Hall was asked to confirm that he was the Landlord. He confirmed that he was, and that he had been a party to the short assured tenancy which was granted in 2015.

37. It was pointed out to Mr Hall that, in respect of the Property, he was not the registered landlord in the Scottish Landlord Register and that Gwendolyn Hall was registered. Mr Hall confirmed that to be his wife.

38. The tribunal suggested that Mr Hall may want to address this issue because operating as a residential landlord without registration constitutes a criminal offence.

39. The tribunal stated that it would deal with the application on the basis that Mr Hall was the landlord and that Mrs Hall, as the owner of the Property and the registered landlord, was an interested party.

40. Mr Hall was asked about the status of Mr Robert Alexander. He said that he was the husband of the deceased tenant and, at the time of her death, they had not been together. He said that it had been thought to be in the interests of the deceased tenant's children that they remain in their home. Their father moved into the Property and Mr Hall said that he now had a private residential tenancy in his name.

Matters dealt with at the Hearing

41. The Legal Member set out the purpose of the hearing.

42. The Ordinary Member stated the findings from the Inspection. He subsequently set these out in the schedule of photographs and site observations previously referred to.

43. Mr Hall said that he could provide copies of an up to date gas safety certificate and an up to date EICR. He said that the EICR was around eighteen months old. He said that he did not think that that the EICR disclosed any matters of concern. It was pointed out to Mr Hall that the person carrying out an electrical inspection would not necessarily test every power socket and light unit and that the inspection disclosed that there are areas of concern.

Discussion and Determination

44. The tribunal determined that the Property did not meet the repairing standard on 8 October 2025.
45. The tribunal noted that some works had been carried out in the Property since the application had been submitted. Two windows and an external door had been replaced.
46. The tribunal noted that the application referred to a sagging ceiling in the hall and an issue with the joints of ceilings and walls in the upper floor. The tribunal accepted that there were issues but determined that they would not be included in a landlord's obligation to keep the Property maintained to the repairing standard.
47. The tribunal determined to make a RSEO in the following terms:

47.1 The Landlord is to repair or replace the defective living room window and ensure that it is in a reasonable state of repair, in proper working order and wind and watertight.

47.2 The Landlord is required to produce a current Electrical Installation Condition Report for the Property. The Report requires to be prepared by an electrician registered with SELECT, NICEIC NAPIT or other accredited registered scheme who is either employed by a firm that is a member of such accredited scheme or is a self-employed member of such a scheme. The Report requires to confirm that the installation is "satisfactory," has appropriate RCD protection wholly compliant with the repairing standard and has no recommendations in the C1 or 2 category or F1 items for further investigation. The EICR should include confirmation that all power sockets, including the fitting in the under sink cupboard, and lighting fittings, have been tested and found to be in satisfactory working order. The EICR should confirm that the Property complies with current Scottish Government guidance in relation to interlinked fire detection devices and a heat alarm in the Property.

47.3 The Landlord is required to provide an up to date Gas Safety Certificate from a Gas Safe Registered Engineer addressing the working order, condition and safety of any gas installation and gas appliances; and the certificate should also address whether there is a carbon monoxide alarm within the Property which complies with statutory guidance.

47.4 The Landlord is to repair or renew the front door and or surrounding frame, of the Property to ensure that it is functioning and is wind and watertight.

47.5 The Landlord is to repair or replace the kitchen floor covering and ensure that no part of it constitutes a trip hazard.

47.6 The Landlord is to repair the window pane in back bedroom 1.

47.7 The Landlord is to repair the radiator in back bedroom 1.

The Landlord requires to comply with the RSEO by 7 December 2025.

Reasons

48. The tribunal had regard to what it had found at the inspection of the Property and the written representations of the Respondent.

49. The tribunal had regard to the statutory obligations imposed upon a residential landlord to ensure that properties meet the repairing standard throughout tenancies.

In terms of section 46 of the Tribunals (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 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.

M J McAllister

Martin J. McAllister,
Solicitor, legal member of the
Tribunal.
12 October 2025.

Schedule of Photographs and Site Observations

106 Carron Place Irvine KA12 9NE

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Schedule of Photographs taken during the inspection on 8 October 2025



Main Street Entrance – Rear elevation

Living Room



Living room window – internal



Living room window – external

As viewed from within, the top right-hand corner of the living room window fails to close properly, leaving a considerable gap. This was confirmed when viewed externally. **Repairs are necessary** although the closing mechanism was functional.

There was no evidence of any leak at the living room radiator and no visible sign of a defective or poorly secured electrical socket

Hallway/Landing



“Front door” from hallway.



“Front door” viewed externally

When viewed internally from the hallway there is a small although visible gap and clear daylight is evident between the door and door frame. As viewed from the garden the door appears functional although recent maintenance and decoration has been neglected. **Repairs are necessary** to render the door wind and watertight.



“Rear door”. Recently renewed and fully functional



Hall ceiling as viewed from internal stairs

There is a noticeable "sag" in the ceiling which is not considered significant in terms of the repairing standard nor the result of any obvious water damage



Landing ceiling



Landing ceiling

Minor separation and shrinkage cracking is evident on the upper landing at the junction of internal wall heads and ceiling. This is not considered structurally significant in terms of the repairing standard.

Kitchen



Kitchen ceiling



Suspended light pendant kitchen ceiling



Kitchen cupboards



Kitchen worktops



Floor covering in kitchen



Under sink electrical socket

A section of the kitchen ceiling has been replaced and renewed in plasterboard. It remains undecorated.

Both the kitchen cupboards and worktops display evidence of significant wear and tear reflecting their age. They would benefit from refurbishment or replacement although remain functional.

There is no evidence of any ongoing or recent water penetration in the kitchen, from the first floor bathroom, affecting the ceiling, wall units or worktops.

The linoleum floor covering, represents a trip hazard and is in **need of significant repair or replacement**

There is, immediately below pipework in the under-sink cupboard, an electrical power point. (See "EICR").



Bath rim and seal



Area next to "sink" and WC

The area surrounding the bath/shower attachment adjacent to the internal walls has been sealed. It displays considerable evidence of mould although the surrounding bath/shower seal appears to be functioning satisfactorily. Staining from previous water "spillage" is evident at the area between the wash hand basin (sink) and WC

The wash hand basin drainage is functioning satisfactorily although there is no plug.

Bedroom Back 1



Cracked window pane



Broken and leaking radiator



Ceiling light pendant



Light pendant "bulb socket"

The bedroom window closing mechanism is functional although the double glazed panel is cracked/broken at the bottom left corner as viewed from within. **It is in need of repair or replacement**

The side panel of the radiator is broken and there is a leak at the valve confirmed by damp readings at the carpet below. **The radiator and valve are in need of repair.**

The ceiling light is defective. The photographs illustrate that it is not operational when the switch is in the "on" position and there is what may be "singeing" at the bulb socket.

The "double plug socket" was not visible although the current tenant confirmed that all sockets/power points in the bedroom were functional.

Bedroom Back 2



The back bedroom window has been renewed and is fully functional

Bedroom 3 (front)



Front bedroom window

The front bedroom window has been renewed. No detailed inspection was possible as full access could not be gained to the room. The current tenant confirmed that it was fully functional.

EICR and Gas Safety Certificate

No Electrical Installation Condition Report or Gas safety Certificates were exhibited during the inspection or held by the current tenant.

Several items raised in the application and noted during the inspection warrant **further investigation** notably in the kitchen and “bedroom back 1” where there are actual or alleged electrical defects affecting power point sockets and light fittings.

No tests were undertaken on the smoke/heat alarms

The photographs in this schedule were taken by the surveyor/ordinary member of the tribunal during an inspection of the property on 8 October 2025. A detailed internal inspection was severely limited in places due to both furniture and significant storage of personal items throughout. Weather conditions were dull and overcast following a sustained period of wet weather.