

Housing and Property Chamber
First-tier Tribunal for Scotland



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

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

Land Register Title No: ABN94577

Chamber Ref: FTS/HPC/RT/25/0560

**Property at 15 Provost Rust Drive, Aberdeen, AB16 7BQ
("the Property")**

The Parties:-

**Aberdeen City Council, Marischal College, Business Hub 11, Second Floor West,
Aberdeen, AB10 1AB
("the Third Party")**

**Mrs Sylvia Tough, 15 Provost Rust Drive, Aberdeen, AB16 7BQ
("the Tenant")**

**Mr Callum Watt, CPW Investments, Flat 29, Whittinghame Court, 1350 Great Western
Road, Glasgow, G12 0PG
("the Landlord")**

Tribunal Members:

Gillian Buchanan (Chair) and Angus Anderson (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 Property, and taking account of the documentary and oral evidence given by the parties, determined that the Landlord has failed to comply with the duty imposed by Section 14(1)(b) of the Act.

Background

1. By application comprising various documents received on 10 February 2025 the Third Party applied to the tribunal 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 considered that the Landlord had failed to comply with his duty to ensure that the Property meets the repairing standard and in particular that the Landlord had failed to ensure that:-
 - (a) The installations in the house for the supply of water, gas and, electricity and (including residual current devices) and any other type of fuel and for sanitation, space heating by a fixed heating system and heating water are in a reasonable state of repair and in proper working order; and
 - (b) The house meets the tolerable standard.
3. By letter dated 28 February 2025 a Legal Member of the tribunal with delegated powers of the Chamber President intimated a decision to refer the application under Section 22(1) of the Act to a tribunal.
4. The tribunal served a Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon the Tenant and the Landlords.
5. Following service of the Notice of Referral the tribunal received the following additional substantive written representations from parties:-
 - From the Third Party by email dated 18 July 2025; and
 - From the Landlord by letter dated 7 August 2025.

Inspection

6. The tribunal, comprising Miss Gillian Buchanan, Chairperson and Legal Member and Mr Angus Anderson, Ordinary Member, inspected the Property on the morning of 25 August 2025.
7. The Tenant was in attendance and provided access. Neither the Third Party nor the Landlord attended the inspection.
8. At the time of the inspection it was fair and dry.
9. Photographs were taken during the inspection and are included in the attached schedule.

Hearing

10. Following the inspection of the Property the tribunal held a hearing by telephone conference during the afternoon of 25 August 2025. Neither the Tenant nor the Landlord attended the Hearing. The Third Party was represented by Ms Jocelyn Jessesn.
11. At the outset of the Hearing Mr Anderson summarised the tribunal's inspection.
12. The tribunal thereafter heard brief submissions from Ms Jessesn in response to questions from the tribunal as follows:-
 - i. The Landlord's application to renew his registration as a landlord is pending.
 - ii. The Third Party has had no further contact with the Landlord.
 - iii. Ownership of the Property remains in the Landlord's name. No repossession papers have been provided.

- iv. With regard to rent, the only reason the Third Party would advise a tenant to withhold rent would be in response to service of a Rent Penalty Notice which would be issued where a Landlord does not renew his/her registration or is unregistered.
- v. The Private Sector Housing Team had not advised the Tenant not to pay rent.

Summary of the issues

13. The issues to be determined are:-

- (a) Whether the installations in the Property for the supply of electricity (including any residual current device) are in a reasonable state of repair and in proper working order.
- (b) Whether the installations in the Property for the supply of gas are in a reasonable state of repair and in proper working order.
- (c) Whether the Property has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.
- (d) Whether the Property has satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health.

Findings of fact

14. The tribunal finds the following facts to be established meantime:-

- (a) The Landlord is the heritable proprietors of the Property.
- (b) The Property is leased by the Landlord to the Tenant in terms of an Assured Tenancy under the Housing (Scotland) Act 1988.
- (c) It is the Landlord's responsibility to ensure that the Property meets the Repairing Standard under the Housing (Scotland) Act 2006.
- (d) There is no current EICR evidencing that the installations in the Property for the supply of electricity are in a reasonable state of repair and in proper working order.
- (e) There is no current Gas Safety Record evidencing that the installations in the Property for the supply of gas are in a reasonable state of repair and in proper working order.
- (f) There is no interlinked system of fire and smoke alarms or adequate carbon monoxide detection in the Property that comply with the Scottish Government's Guidance relating to the Tolerable Standard on satisfactory fire detection and satisfactory carbon monoxide detection.
- (g) The Property does not meet the Repairing Standard.

Reasons for the Decision

15. The Property is a two storey, semi-detached house built on behalf of the local authority around 75 years ago. The Property is in an established residential area around three miles north-west of Aberdeen City centre.

16. The house is of BISF design, having a structural steel frame and metal clad roof and walls. Space heating is provided by a gas fired central heating system. There is a Baxi Bermuda central heating boiler in the lounge, which incorporates a focal point gas fire. There are water filled radiators throughout the house. The windows are PVC framed and double glazed throughout.
17. The accommodation comprises on the ground floor: hallway, lounge, kitchen and bathroom and three bedrooms on the first floor.
18. The inspection was restricted to those items within the application paperwork. The inspection commenced in the lounge. The Tenant advised that the gas boiler had not been checked in recent times and the gas fire did not work. It could be seen that the control knob was missing. A carbon monoxide detector was present, resting on a shelf near the boiler. The detector had an expiry date of 09/2034. The Tenant further advised that her nephew had supplied the detector. There was no smoke alarm present within the lounge.
19. The hallway was inspected. There was a single battery powered smoke alarm affixed to the ceiling. The Tenant advised that her nephew had supplied and fitted the alarm. The consumer unit was inspected. It appeared to date from the original construction of the house. There were no labels indicating any previous periodic testing. Visible wiring was clad in grey PVC. There was a loose socket in the hallway, at the foot of the stairs.
20. Within the kitchen, there was no heat alarm.
21. At the first floor landing, there was no smoke alarm.
22. The hot water cylinder is located in the rear bedroom. The cylinder was warm to touch. An electric immersion heater is present. The tenant explained that the heating must be on in order to obtain hot water and the immersion heater was not working.

Decision

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

Right of Appeal

26. **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 tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.**

Effect of section 63

27. **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.

Date : 25 August 2025