

Housing and Property Chamber
First-tier Tribunal for Scotland



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under sections 24 and 27 of Housing
(Scotland) Act 2006**

Chamber reference: FTS/HPC/RP/26/0318

Re: Property at Flat 1/L, 12 Boyd Street, Largs, KA30 8LD (“the Property”)

The Parties:

Junyi Wu, Flat 1/L, 12 Boyd Street, Largs, KA30 8LD (“the Tenant”)

**Anne McLaughlan, 2/2 Coxfield Lane, Edinburgh, EH11 2RF; and David
McLaughlan, 2/2 Coxfield Lane, Edinburgh, EH11 2RF (“the Landlord”)**

Tribunal Members:

Joel Conn (Legal Member) and Kingsley Bruce (Ordinary (Surveyor) 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 determined that the Landlord has failed to comply with that duty, and that it would make a Repairing Standard Enforcement Order (“RSE”).

Background

1. By application dated 22 January 2026, the Tenant, as Applicant, applied to the Housing and Property Chamber of the First-tier Tribunal for Scotland for a determination of whether the Landlord, as Respondent, had 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 and in terms of rule 48 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended.
2. The Tenant, along with his co-tenant, Jack Lee, are parties to a private residential tenancy agreement for the Property with the first named Landlord. The private residential tenancy commenced on 25 October 2023. The first named Landlord

is now deceased. The second named Landlord is her son. The second named Landlord has overseen the Tenancy for some time, both before and after his mother's passing. He is now registered as the landlord. (He informed the Tribunal at the Hearing that title to the Property was now registered in the joint names of himself and his sister Margaret McLaughlin, but we were not provided with evidence of same). No point was taken by either party in regard to the designation of the Applicant (ie that Mr Lee did not seek to be party to the application) or of the Landlord. In the circumstances, we did not see any impediment to us proceeding with the application on the basis of the parties being as set out in the application papers.

3. The application stated that the Property did not meet the Repairing Standard set out in section 13 of the 2006 Act on a number of possible grounds, being alleged non-compliance with the following requirements:
 - 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 installations in the house for the supply of water, gas, electricity (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.*
 - h) *The house meeting the tolerable standard in the following ways:*
 - 2: *In the case of a house having a supply of electricity, it complies with the relevant requirements in relation to the electrical installations for the purposes of that supply;*
 - 5: *It is substantially free from rising or penetrating damp;*
4. On 24 February 2026, a Notice of Acceptance was issued by a legal member of the Tribunal acting under delegated powers of the Chamber President.
5. During the period prior to the proposed inspection and hearing, the Tenant provided written submissions and documentation. Further, the Landlord requested a postponement so as to investigate, but this motion was refused.

Property Inspection

6. The members of the Tribunal inspected the Property on 5 October 2026 at 10:00. The Tenant was not present but we were provided access by the co-tenant, Jack Lee.
7. The Tribunal took a series of photographs during the inspection. A Schedule of Photographs has been prepared and is issued to accompany this decision.

Findings on Inspection

8. The Property is first-floor flat in a 20th century tenement block. The accommodation is accessed through a common close. The Property comprises

two bedrooms, living room, bathroom, and kitchen area off the hallway. The boiler is situated in a wall-press cupboard in the living room, which is a front-facing room. The flue for the boiler exits through the outside wall, and the flue terminal is visible from the street, slightly to the right of the living room window.

9. The Property was occupied and fully furnished at the time of the inspection. The weather was dry during the inspection, though there had been light rain earlier in the morning.
10. We noted no water escape from any part of the boiler during our visit (which was consistent with the Tenant's submissions at the hearing – referred to below – that the water escape occurs during periods of significant rain combined with wind).
11. The Tenant had placed a bowl underneath the boiler but it was also dry at the time of the inspection. There was some marking or staining below the bowl (on wooden floor boards). We saw no evidence of rot or material water damage to the floor boards.
12. We noted in the Tenant's written submissions that he attributed the water escape as coming from rain that was entering the boiler from the outside, having passed down the flue. He believed this was due to the flue being at an upwards angle as it leaves the boiler and passes through the outside wall, so that gravity would allow rain entering the flue terminus to work its way down the pipe, into the boiler housing and then drip out the bottom. Without determining the accuracy of the Tenant's submissions on the cause of any water escape, we made the following observations during the inspection:
 - 12.1 The flue pipe at the top of the boiler, which combines exhaust and air intake, did appear to rise at a slight angle as it exited through the outside wall.
 - 12.2 The flue terminal on the front elevation was one-storey up but we could only view it from ground level.
 - 12.3 The external seal around the flue terminal was not entirely flush to the surface of the wall, particularly where a raised stone detail interfered with the fit of the seal. A gap was visible.

Hearing

13. A Hearing was held at Glasgow Tribunal Centre on 5 October 2026 at 12:00. It was attended by the Tenant (speaking through a translator), and the second named Landlord.
14. The Tribunal sought further information and comment from the parties on the history of the alleged want of repair, and on our observations from the inspection.
 - 14.1 The Tenant said that he had first noticed the water escape in December 2023, a few months after moving in. He said that it only ever occurred during periods of rain. It did not occur in all rain. He said it would not occur if it was

only drizzling, but if it was more substantial rain, especially with wind, the dripping may start. The Tenant said that he had never noticed the boiler dropping pressure and had never topped up the water level in the boiler. (During the inspection, Mr Lee said that he never did anything to alter the water level in the boiler.) The Tenant offered only one possible theory for the water escape: that the flue pipe was angled upwards, when it should be angled downward, and so rain was penetrating in the flue and down through the boiler.

- 14.2 The Landlord said that the boiler had first been installed around May 2023, but the Property was not occupied for some months thereafter. When the water escape was first reported by the Tenant in December 2023, he instructed the original installing engineer to attend at the Property, which he did the next day. The engineer observed no dripping on that visit. The Landlord said there were no further reports of issues for some time after. All other contact was then handled through his letting agent, 24/7 Letting, and as far as he understood contractors had been sent out each time, though he did not know the outcomes of their inspections. (He said that he had requested from the letting agent, but was yet to receive, copies of all the reports.) He said that, if contacted by the letting agent to authorise a repair or investigation, he always approved it and never delayed in doing so.
- 14.3 The Landlord accepted that the Tenant had lodged photographs showing dripping from the boiler, and he did not dispute the Tenant's submissions that there was water escape for some reason. The Landlord said that he did not know the reason for the water escape but agreed that, to his eye, the seal around the flue terminal did not appear fully flush to the wall, and that the pipe leaving the boiler and exiting through the outside wall was at a slight upwards angle. He had checked the installation instructions for the boiler and it showed that the pipe was to be installed level. He had however recently spoken with the original installer who said that his view was that a slight upwards angle was appropriate (but the Landlord stressed that this was a comment only from a brief recent discussion). The Landlord said that he had already discussed with the installer ways to mitigate against any possibility of rain coming in from outside, through the flue pipe, into the boiler. He was willing to have the matter investigated further by an appropriate contractor and was open to more than one remedial action possibly being required (such as something external to stop water getting into the end of the flue, plus some change in the angle of the pipe internally).
15. The parties were in agreement that there had been a recent gas safety inspection (carried out around August 2026). The Landlord said that no copy of the report had been provided to him, but that his letting agents had not told him of any repairs or steps deemed necessary.
16. The Landlord stated that he wished to have the matter resolved, and to have a suitable contractor inspect and recommend remediation. The Tenant confirmed that he was satisfied for any work to be as recommended by a suitable expert.

Parties were thus agreed on the essential next steps.

17. The Tenant sought an RSEO requiring the inspection, report and remediation, and suggested two months as a suitable period of time for this to be undertaken. The Landlord stated that he had no preference between a continuation for a report, etc. to be carried out voluntarily, or for it to be ordered in an RSEO. He also thought two months should be sufficient.

Discussion and Reasons

18. The Tribunal had regard to what it had found at the inspection of the Property and the representations from parties. The Tribunal had further regard to the statutory obligations imposed upon a residential landlord to ensure that properties meet the Repairing Standard throughout tenancies.
19. In terms of section 14 of the 2006 Act, a landlord is required to maintain a tenanted property to the Repairing Standard at all times during the Tenancy. The Tribunal in a Repairing Standards application, however, considers matters only as at the inspection.
20. Though we observed no water escape during our inspection, and the visual evidence at the inspection for past water escape was not conclusive, we noted the photographs of water escape lodged by the Tenant and that the Landlord did not dispute that water was escaping, somehow, out of the body of the boiler. The Tribunal thus determines that as at the date of the inspection, the Landlord has failed to comply with two aspects of the Repairing Standard (though both related to the water escape from the boiler). We hold that it is appropriate to make a RSEO at this time.
21. We are sympathetic to the Landlord's ignorance of the details of all inspections, and the difficulty of resolving an intermittent fault. Nonetheless, the same intermittent issue first reported in December 2023 appears to remain almost three years later. In the circumstances, we hold an RSEO is appropriate. Parties were agreed on allowing two months for compliance and we agree with that duration.
22. In regard to the specific breaches of the Repairing Standard, we hold that the Landlord has failed to ensure that:
 - 22.1 In reference to s13(a) of the Act, the Property is wind and water tight and in all other respects reasonably fit for human habitation (in regard to there being intermittent water escape from the boiler into the living room cupboard); and
 - 22.2 In reference to s13(c), the installations in the house for the supply of gas are in a reasonable state of repair and in proper working order (in regard to there appearing to be some fault in the boiler, its housing, or its plumbing that is allowing the escape of water).
23. In regard to the terms of the RSEO, the order is referred to for its terms but the material section reads that that Landlord is required:

- a) *To instruct an inspection by a suitably qualified heating engineer so as to establish the cause of apparent water escape around the boiler;*
- b) *Thereafter to undertake such works as deemed necessary by the engineer to remedy the water escape; and*
- c) *To report to the Tribunal and the Tenant as to the outcome of the said investigation and the steps undertake to remedy.*

As stated above, we allow two months from today for the Landlord to undertake this work. Though we do not specify any specific works to be undertaken, the Landlord would be well-advised to investigate both the angle of the pipe and the apparent lack of seal round the full diameter of the flue terminus, as well as instruct an internal inspection of the boiler. The Landlord should wish to ensure there is no water escape from within the boiler as well no rain penetration.

Determination

- 24. In all the circumstances, having found that the Landlord has failed to comply within the duty imposed by section 14(1)(b) of the 2006 Act as at the date of the inspection, we are satisfied to make an RSEO in this application.
- 25. Any further procedure may be considered after the expiry of the two-month period of compliance in the RSEO.

Right of Appeal

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.

J M Conn

5 October 2026

Legal Member/Chair

Date



FTS/HPC/RP/26/0318

Schedule of Photograph

Flat 1/L, 12 Boyd Street, Largs, KA30 8LD

Inspection date: 5 October 2026

General view of gas combination boiler in wall-press off livingroom



Underside of boiler- no indication of leakage at the time of the inspection



Gas meter and bowl, placed by tenant, dry at the time of the inspection



External-flue terminal and seal, showing part of seal not flush to wall surface, gaps visible



Boiler pressure guage, showing pressure within acceptable range



Internal view of boiler flue, above boiler, passing through external wall



Prepared by:

Kingsley Bruce

Ordinary (Surveyor) Member

First Tier Tribunal for Scotland- Housing and Property Chamber

5 October 2026