

# Housing and Property Chamber First-tier Tribunal for Scotland



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

**Determination under section 24(1) of the Housing (Scotland) Act 2006**

**Chamber Ref: FTS/HPC/RP/19/0743**

**Property at 40A Florence Place, Perth, PH1 5BH  
("The House")**

## **The Parties:-**

Mr John Ward and Ms Linda Rodgers, both residing at 6 South Inch View, Perth, PH2 8AX ("the Landlord")

Mr Mateusz Gawinski and Mr Jacek Ludwicki, formerly residing at 40A Florence Place, Perth, PH1 5BH ("the former Tenants")

## **The Tribunal comprised:-**

Mrs Ruth O'Hare	-	Legal Member
Ms Lorraine Charles	-	Ordinary Member

## **Decision**

The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the Tribunal') unanimously determined that the Landlord had complied with the duties imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 ("the Act") and resolved to take no action.

## **Background**

1. By application received 5 March 2019 the former Tenants applied to the Tribunal for a determination of whether the Landlords have failed to comply with the duties imposed by Section 14(1)(b) of the Act.
2. The application stated that the former Tenants considered that the Landlords had failed to comply with their duty to ensure that the house meets the repairing standard and in particular that the Landlords had failed to ensure that:-
  - (a) The house is wind and watertight and in all 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 and electricity and for sanitation, space heating and heating water are in a reasonable state of repair and in proper working order; and
  - (d) The house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.
3. In summary, the former Tenants submitted that the Landlords had delayed in carrying out repairs, there were problems with the roof, windows and the doors, the house suffered from draughts, there were issues with the electrical installations, heating system and pipes in the kitchen and bathroom and problems with mould and condensation which had damaged belongings.
  4. By Minute dated 16 April 2019 the Convener of the First-tier Tribunal (Housing and Property Chamber), with delegated powers under section 23A of the Housing (Scotland) Act 2006, intimated his decision to refer the application under Section 22 (1) of the Act to a Tribunal for determination.
  5. By email dated 13<sup>th</sup> May 2019 the former Tenants notified the Tribunal that they had vacated the property. By Minute of Continuation dated 13<sup>th</sup> June 2019 the Tribunal determined to continue with the application having regard to the nature of the allegations of disrepair and the potential risk to future occupants.
  6. The Tribunal attended the house on the morning of 24<sup>th</sup> June 2019. The weather was cloudy and wet with intermittent showers. The Landlords were both present. The property had also been re-let and the new Tenant Tracey Brusaglia was present with her daughter to allow access.
  7. The Tribunal proceeded to inspect the property.

### **The Inspection**

8. During the inspection the Tribunal examined the issues of disrepair highlighted in the application by the former Tenant.
9. The Tribunal inspected the windows and doors throughout the property. All appeared to be wind and watertight with no evidence of drafts. Damp readings were taken in the lounge, kitchen and front and back bedroom and all were found to be normal.
10. The Tribunal further noted the pipework in the kitchen pertaining to the sink was in good condition with no evidence of leaks. The Tribunal was unable to inspect the pipes in the bathroom within the confines of the inspection as all were boxed in.

11. The Tribunal noted the property was fitted with gas central heating. The boiler appeared to be in proper working order and the heating system was confirmed to be operational by the new Tenant. The Tribunal tested the hot water tap in the kitchen which functioned at an appropriate temperature. The Tribunal also noted the presence of hard wired smoke and heat detectors and a carbon monoxide detector, all of which conformed with current standards.
12. During the inspection photographs were taken by the Ordinary Member and a schedule of photographs is attached to this decision.
13. The inspection was concluded and the Tribunal travelled to the venue for the hearing.

### **The Hearing**

14. The hearing took place in Inveralmond Business Centre. The Landlords were both present. They outlined the problems they had experienced with the former Tenants and explained that the repairs complaints were disingenuous and an attempt to obtain housing with the local authority. Their view was that the property met the Repairing Standard. The Landlords explained that they had spent a significant amount of money on the property following the former Tenants' departure. They had left the property in an unacceptable condition. The Landlords explained that any problems with mould were a result of the former Tenants' failure to adequately heat and ventilate the property.
15. The Landlords also produced an up to date Electrical Installation Condition Report and Gas Safety Certificate which the Tribunal had the opportunity to consider at the hearing. The Tribunal noted that both confirmed the installations to be in proper working order, with no issues highlighted.

### **Findings in fact and law**

16. Having considered all the evidence the Tribunal found the following facts to be established:-
  - a. The windows and doors throughout the property are in a reasonable state of repair.
  - b. The pipework in the kitchen is in a reasonable state of repair. Within the confines of the inspection it can also be reasonably concluded that the pipework in the bathroom is in a reasonable state of repair.
  - c. The property is wind and watertight.
  - d. The property has satisfactory provision for the detection of fires and carbon monoxide and for giving warning in the event of fire or a carbon monoxide leak.

- e. The installations in the house for the supply of gas and electricity and for space heating and heating water are in a reasonable state of repair and in proper working order.

### **Reasons for the decision**

17. The Tribunal determined the application having regard to the terms of the application and the findings of their inspection.
18. The Tribunal was satisfied having regard to all of the available evidence that there was sufficient information and material upon which to reach a fair determination of the application.
19. The Tribunal was satisfied from the findings of the inspection that the property meets the Repairing Standard. There was no evidence to suggest otherwise. Whilst it was clear that work had been undertaken to the property since the former Tenant's had moved out, there was no evidence to support any of the allegations of disrepair highlighted in the application at the time of the inspection.
20. The Tribunal therefore concluded that the Landlord had complied with his duties under the Repairing Standard for the above reasons and determined to take no action.
21. The decision of the Tribunal was unanimous.

**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.**

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.

R O'Hare

Signed

Ruth O'Hare  
Chairperson

25 June 2019

# Housing and Property Chamber

## First-tier Tribunal for Scotland

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Date of Inspection – 24 June 2019 at 10:00am

Property Reference – FTS/HPC/RP/19/0743

Property Address – 40A Florence Place, Perth PH1 3FX

Surveyor – Lori Charles

Weather – Cloudy

### Lounge



Windows were tested and both hoppers open and close without issues.

Both hoppers and window frame were tested for drafts. No evidence noted window appears draft free.

### Kitchen



Kitchen window and back door tested for drafts - No evidence noted both appear draft free.

### Kitchen Continued



Pipework under kitchen sink complete no leaks noted.

### Bathroom



Window tested for drafts no evidence noted and window appears draft free.

Pipework and flooring checked no evidence of damage or drafts.

### **Rear Bedroom 1**

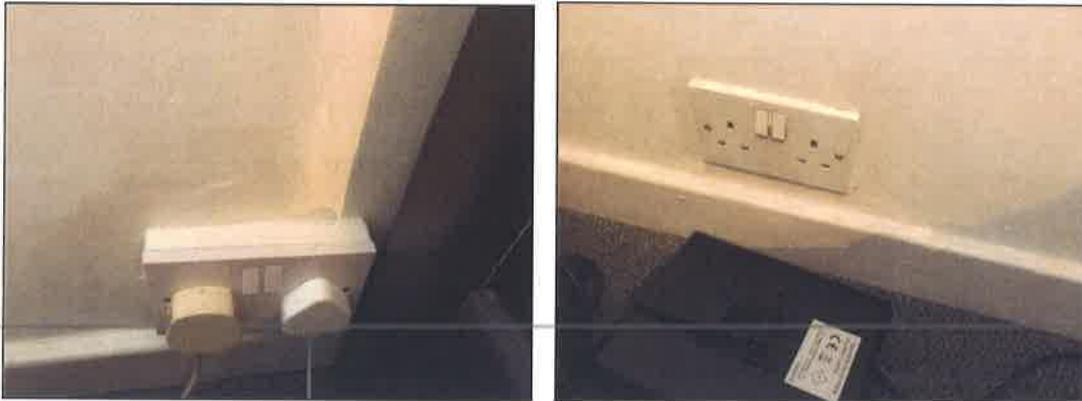


Window tested for drafts no evidence noted and window appears draft free.  
Moisture readings are within normal range.

### **Front bedroom 2**



Window tested for drafts no evidence noted and window appears draft free.  
All rooms were tested for dampness all readings fell within the normal range.



Power points in bedroom two, were inspected and appear to be in working order no mould noted.

**Observations**

The property was fully carpeted and smoke detectors were fitted within the hall, lounge and kitchen. A carbon monoxide detector was noted in the kitchen.

An updated Electrical certificate and Gas safety certificate was presented at the hearing.

**Lori Charles BSc Hons MRICS**

**Ordinary Member (Surveyor)**

**Date 29/05/19**

**Schedule of photographs taken by the Ordinary Member of the First Tier Tribunal for Scotland (Housing and Property Chamber) on the 24 June 2019 .**

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