

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



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

**REPAIRING STANDARD ENFORCEMENT ORDER**  
**Ordered by the Tribunal**

**RE: All and Whole the dwelling house known as 60 Halfield Gardens, Kennoway, Fife KY8 5HL registered in the Land Register under title no FFE73012 (hereinafter referred to as "the House")**

**The Parties:**

**Sky Mann, 60 Halfield Gardens, Kennoway, Fife KY8 5HL (hereinafter referred to as "the Tenant")**

**Elaine Margaret Parker, c/o Fife Properties, 22 North Street, Glenrothes, Fife KY7 5NA (hereinafter referred to as "the Landlord")**

**Chamber Ref: FTS/HPC/RP/19/1799**

**NOTICE TO ELAINE MARGARET PARKER**

**WHEREAS** in terms of its decision dated 20 September 2019 the Tribunal determined that the Landlord has failed to comply with the duty imposed by section 14(1)(b) of the Housing (Scotland) Act 2006 and in particular that the Landlord has failed to ensure that the House meets the repairing standard in that:

*"(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...*

*...(h) the house meets the tolerable standard".*

The Tribunal now requires the Landlord to carry out such work as is necessary for the purposes of ensuring that the House meets the repairing standard and that any damage caused by the carrying out of any work in terms of this Order is made good.

In particular, the Tribunal requires the Landlord:

1 To obtain and provide to the Tribunal a report from an independent qualified electrician that the electrical installations are in safe and working order, such report to comment in particular upon the reported tripping of the RCD when the electric hob or kitchen sockets are used.

2 To obtain and provide to the Tribunal a report from an independent Gas Safe registered plumber confirming that the central heating system is in good working order, such report to comment in particular on the reported issue of the boiler regularly losing pressure.

3 To obtain and provide to the Tribunal a report from a suitably qualified independent plumber that the drainage arrangements for the House are satisfactory and that waste water pipes are running freely.

4 to repair the damaged flooring in the front facing bedroom so that the floor is reasonably even.

5 To secure all loose bricks and coping stones in the rear garden ornamental walls.

6 To erect a fence across the width of the garden at the foot of the garden, such fence to be reasonably capable of preventing children or dogs from passing through it.

7 To carry out repairs so that all missing spars in the front garden fence are replaced.

The Tribunal orders that the works specified in this Order must be carried out and completed within 42 days from the date of service of this Notice.

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.

Where such an appeal is made, the effect of the decision and 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.

IN WITNESS WHEREOF these presents typewritten on this and the preceding page are signed by John Miller McHugh, Chairperson of the Tribunal at Edinburgh on the Twentieth day of September Two Thousand and Nineteen in the presence of the undernoted witness:

John M McHugh

Chairperson  
K Preece

Witness

KCAL PREECE

Witness Address

65 HAIRMARKET TERRACE  
EDINBURGH  
EH1 2 SH

# Housing and Property Chamber First-tier Tribunal for Scotland

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

**STATEMENT OF DECISION OF THE TRIBUNAL  
UNDER SECTION 24(1)  
OF THE HOUSING (SCOTLAND) ACT 2006**

**In connection with**

**Property at 60 Halfield Gardens, Kennoway, Fife KY8 5HL (hereinafter referred to as "the House")**

**Sky Mann, 60 Halfield Gardens, Kennoway, Fife KY8 5HL (hereinafter referred to as "the Tenant")**

**Elaine Margaret Parker, c/o Fife Properties, 22 North Street, Glenrothes, Fife KY7 5NA (hereinafter referred to as "the Landlord")**

**Chamber Ref: FTS/HPC/RP/19/1799**

## **DECISION**

The Tribunal, having made such enquiries as are 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 (hereinafter "the Act") in relation to the House, and taking account of the evidence led on behalf of the parties at the inspection and of the written documentation attached to the application and submitted by the parties, determined that the Landlord had failed to comply with the duty imposed by section 14(1)(b) of the Act.

## **Background**

By application dated 12 June 2019 (hereinafter referred to as "the Application") the Tenant 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 Act.

The Application stated that the Tenant considered that the Landlord had failed to comply with the duty to ensure that the House meets the repairing standard and, in

particular, that the Landlord had failed to ensure compliance with the following paragraphs of section 13(1) of the Act:

"(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...

...(h) the house meets the tolerable standard".

The Tenant complained about: dampness in the living room floor causing staining to the carpet; uneven floors; problems with the electrical installations; problems with the central heating boiler; problems with drainage; dampness in the front facing bedroom; damaged/inadequate garden fencing; rusty clothes poles; and damaged ornamental walls.

By letter of 16 July 2019, the President of the Tribunal intimated a decision to refer the application under section 23(1) of the Act for determination.

The Tribunal comprised the following members:

John McHugh, Chairperson  
Greig Adams, Ordinary (Surveyor) Member.

The Tribunal served Notice of Referral in terms of Paragraph 1 of Schedule 2 to the Act upon the Landlord and the Tenant.

A hearing and inspection were fixed for 22 August 2019.

The Tribunal inspected the House on 22 August 2019. The Tenant was present. The Landlord was represented by her letting agent, Richard Cook of Fife Properties.

Following the inspection, the Tribunal held a hearing at the Lomond Centre, Glenrothes. The tenant was neither present nor represented. The Landlord was represented by Mr Cook. The Tribunal considered the written evidence submitted by the parties and the landlord's submissions.

### **Submissions at the Hearing**

The Landlord's representative indicated that there had been extensive investigations to try to ascertain the reason for the living room carpet staining (including the structural engineers report from Dryburgh Associates which the Tribunal had seen) but the problem had not been identified. The Landlord's agent had been unaware of the electrical problem. Additionally, he expressed the view that the Landlord did not consider that any new fencing as necessary.

## **Summary of the Issues**

The issue to be determined is whether the House meets the repairing standard as laid down in section 13 of the Act and whether the Landlord has complied with the duty imposed by section 14(1)(b).

## **Findings in Fact**

The Tribunal confined its inspection to the items of complaint detailed within the Application.

The Tribunal made the following findings in fact:

- 1 The House is a mid-terrace house.
- 2 The Tenant is the tenant under a short assured tenancy agreement dated 31 January 2017.
- 3 Elaine Margaret Parker is the registered owner of the House.
- 4 The Tenant took possession of the House from 31 January 2017 and remains in occupation.
- 5 The provisions of Chapter 4 of Part I of the Act apply to the tenancy.
- 6 The Tenant notified the Landlord's representative of the defects in the House which are now the subject of the Application by correspondence to the Landlord dated 4 June 2019.
- 7 The inspection on 22 August 2019 revealed:
  - a. Staining was present to the living room carpet. Observation and testing of the floor beneath did not reveal that excessive moisture was present.
  - b. Electrical sockets are present beneath the sink pipework.
  - c. Turning on the electric hob caused the RCD to trip.
  - d. A plastic pipe has been inserted into the cast iron waste pipe at the rear wall which carries waste water from the kitchen.
  - e. Mould is present around the first floor bedroom windows.
  - f. In the rear garden the low ornamental walls have loose bricks and coping stones as well as missing coping stones.

- g. The rear garden fence at the foot of the garden is damaged.
- h. The front garden boundary fence has missing spars and is in poor condition.
- i. The clothes poles in the rear garden are rusted and their paintwork is flaking off.
- j. Floors are uneven in the living room, kitchen and front bedroom.

A schedule of photographs taken at the inspection is attached to this Decision.

## **Reasons for the Decision**

### Living Room Floor

Staining was observed in a section of the living room carpet. No signs of excessive moisture were observed beneath the carpet.

### Uneven Floors

The living room and kitchen floors are somewhat uneven but we consider the unevenness to be sufficiently minor that there is no breach of the repairing standard. In the front facing bedroom some flooring was loose and requires to be repaired.

### Dampness in Bedroom

In the front facing bedroom mould was observed around the windows. This appears to be the result of condensation and not penetrating dampness. It would be advisable to keep the windows' trickle vents open.

### Boiler

The Tenant reports that the boiler loses pressure and has to be topped up around twice a week.

### Electrics

The Tenant reported that the RCD will trip when she switches on the electric hob or the socket on the wall close to the cooker. She demonstrated this. She was also concerned about the safety of the location of electrical sockets beneath the kitchen sink waste pipe.

### Drainage

A plastic pipe has been inserted into the cast iron waste pipe at the rear wall which carries waste water from the kitchen. It does not appear to be secure. The tenant complains of smells emanating from this pipe and of the pipe becoming blocked. She also raised that the toilet regularly becomes blocked, as does the shower waste pipe.

### Garden walls and fences

The rear garden fence at the foot of the garden is damaged.

The front garden boundary fence has missing spars and is in poor condition.

The rear garden contains low ornamental walls. Coping stones are missing. Coping stones and bricks are loose.

The rear boundary fence at the foot of the garden is in poor condition. The Tenant has attempted to erect a new fence, but it does not cover the whole rear boundary. The Tenant is concerned that a neighbour's dog and her own children can pass through the existing fence.

The front fence has missing spars. The section running from the front door to the street is in poor condition but is presently sufficient to secure the boundary.

#### Clothes poles

The clothes poles in the rear garden are rusted and their paintwork is flaking off. They remain serviceable and, although they would benefit from being painted, their condition does not breach the repairing standard.

#### The Repairing Standard

The Tribunal considers the following issues to constitute breaches of the repairing standard: the flooring in the front bedroom; the electrics; the boiler; the drains; the ornamental walls; the rear fence and the missing spars in the front fence.

Accordingly, a Repairing Standard Enforcement Order should be made. Having regard to the nature of the works required at the House, the Tribunal have allowed 42 days for the repairs to be carried out.

## **Decision**

The Tribunal, considering the terms of section 13(3) of the Act, determined that the Landlord had failed to comply with the duty imposed by section 14(1)(b) of the Act.

The decision of the Tribunal was unanimous.

## **Right of Appeal**

**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 of the 2006 Act**

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.

John M McHugh

John M McHugh  
Chairperson

Date: 20 September 2019



**Property at 60 Halfield Gardens, Kennoway,  
Fife KY8 5HL (the House")**

Chamber Ref: FTS/HPC/RP/19/1799

# SCHEDULE OF PHOTOGRAPHS



1 Front Elevation.



2 Missing spars to front boundary fence.



3 Living Room carpet – area of staining centrally.



4 Closer view of area of staining.



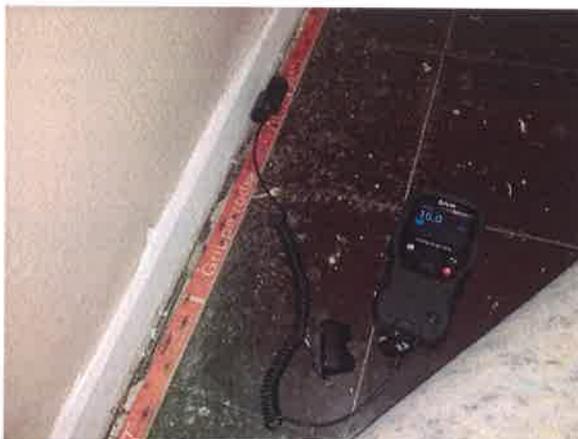
5 Investigations – vinyl floor tiles evident below carpet.



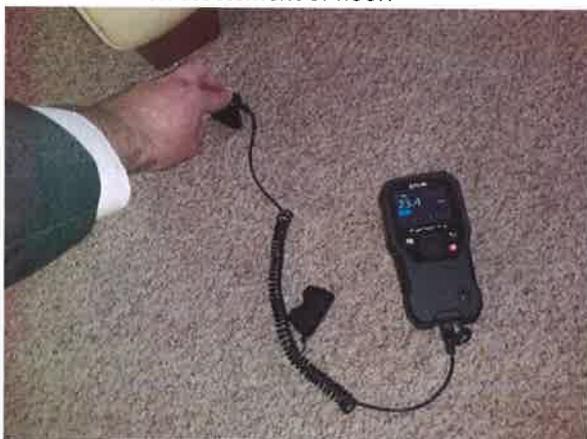
6 Skirting in same location and base of wall.



7 Condensation assessment of floor.



8 Moisture readings to skirtings.



9 Moisture readings to carpet (small elevated reading adjacent to sofa).



10 Moisture readings to carpet (equilibrium reading).



11 Electrical socket below sink.



12 Damage to kitchen doorfront.



13 Flooring in Kitchen.



14 Hob in Kitchen – tripping RCD when turned on.



15 Investigation at consumer unit.



16 Boiler.



17 Mould growth around window.



18 Mould growth around window.



19 Floor within Bedroom.



20 Condensation assessment to walls.



21 Condensation assessment to walls.



22 Rear raised decorative walls – missing copes.



23 Cracking and defective pointing to decorative walls.



24 Missing copes etc to decorative walls.



25 Rear boundaries.



26 Rear boundaries.



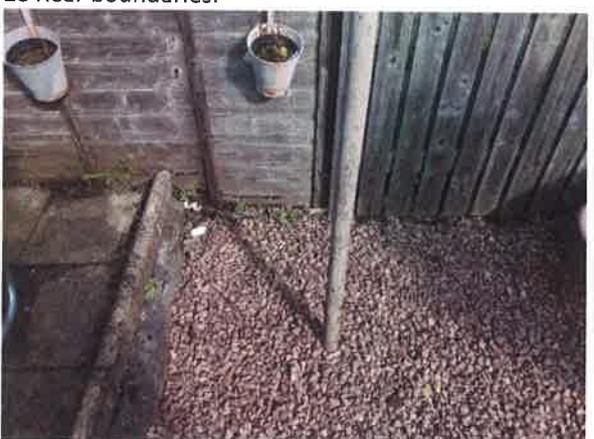
27 Rear boundaries.



28 Rear boundaries.



29 Damaged paving slabs at rear.



30 Clothes pole.



31 Close view of clothes pole.



32 Loose PVC pipework at connection to cast iron and poor seal.



33 Closer view of PVC to cast iron connection.



34 Raised plant bed abutting elevation.



35 Front fencing – localized timber decay.



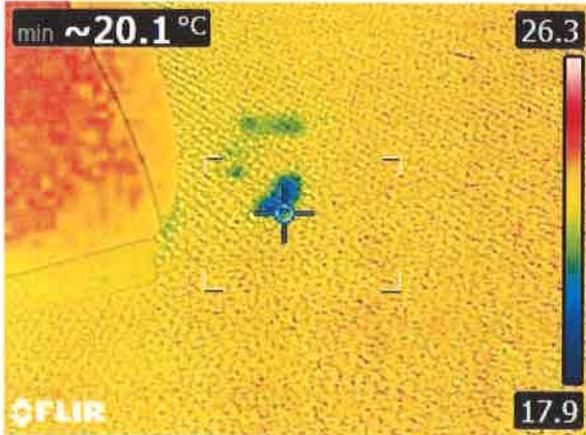
36 Front fencing – localized timber decay.



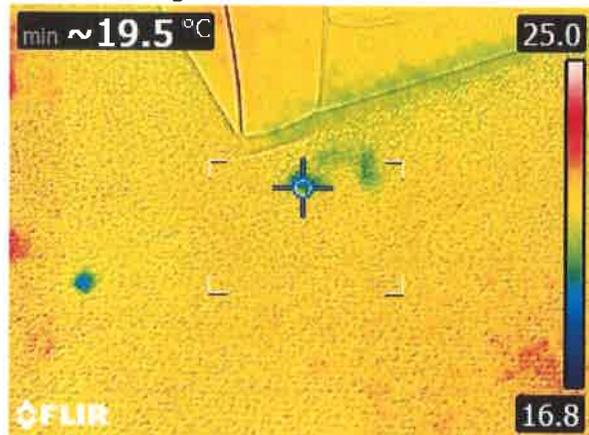
37 Front fencing – localized timber decay.



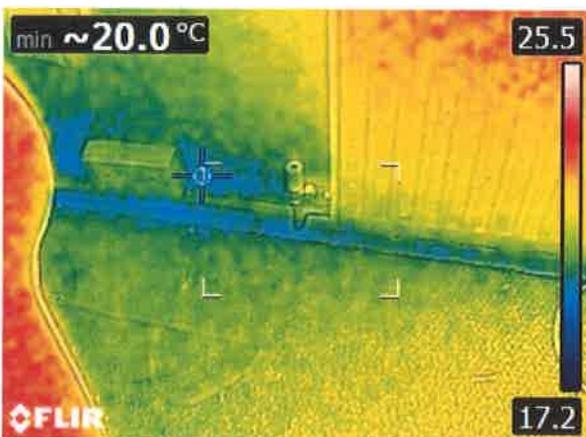
38 Front fencing.



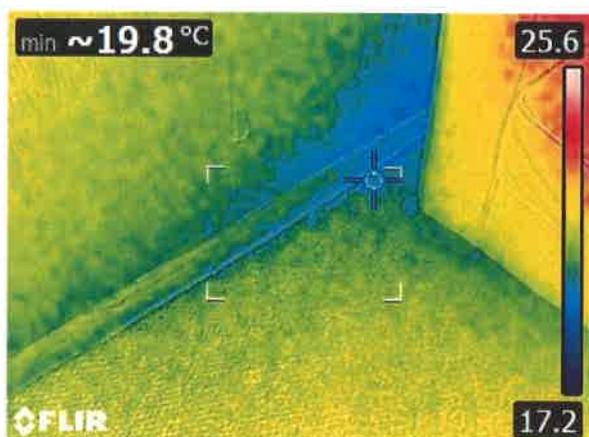
39 Thermal imaging of Living Room carpet.



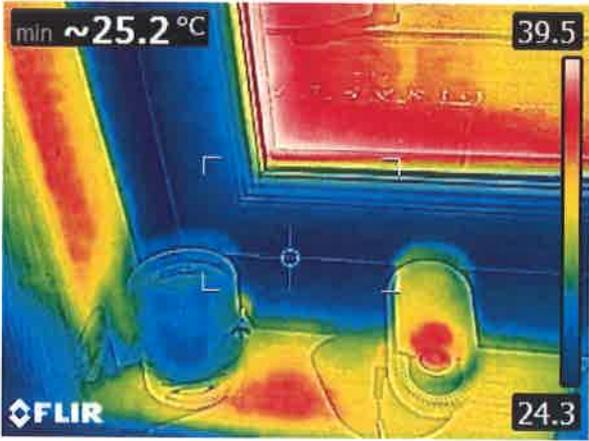
40 Thermal imaging of Living Room carpet.



41 Thermal imaging of floor.



42 Thermal imaging of floor.



43 Thermal imaging of window at areas of mould growth.