

# Housing and Property Chamber First-tier Tribunal for Scotland



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

**Decision and Statement of Reasons: Housing (Scotland) Act 2006  
Section 24**

**Chamber Ref: FTS/HPC/RP/19/1600**

**Title no: ANG84215**

**50 Ravenscraig Road, Dundee DD2 4ND (“The House”)**

**The Parties:-**

- **Dundee City Council, Private Sector Services Unit, 5 City Square, Dundee DD1 3BA (represented by their agent (Mr Stuart Cuthill)) (“the Third Party Applicant”)**
- **Ms Alishya Sangster, 31 Quarryknowe, Dundee, DD2 2QL (previously 7 Taylor Street, Dundee DD2 3DU) (‘the Landlord’)**

**The Tribunal comprised:-**

Ms Gabrielle Miller - Legal Member  
Mr Mark Andrew - Ordinary Member (Surveyor)

**Decision**

1. 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 House and taking account of the evidence led by the Tenant and the Landlord at the hearing, determined that the Landlord had failed to comply with the duty imposed by Section 14(1)(b) of the Act.

**Background**

2. On 27<sup>th</sup> May 2019, the Third Party had written to the Landlord with the list of the complaints. A copy of this letter has been provided to the Property and Housing Chamber. The correspondence related to the matters within the application.

3. By application received 29<sup>th</sup> May 2019, the Third Party Applicant applied to the Housing and Property Chamber for a determination as to whether the Landlord has failed to comply with the duties imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006.
4. The application by the Third Party Applicant stated that it was considered that the Landlord had failed to comply with the duty to ensure that the House met the repairing standard in that :-
  - a) The House is wind and water tight 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 reasonable state of repair and in proper working order;
  - c) The installations in the Property for the supply of the water, gas and electricity and for sanitation, space heating and heating water are not in a reasonable state of repair and in proper working order; and
  - d) Any fixtures, fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order.
5. In particular, the complaints consisted of the following issues:-
  - a) The front door requires to be replaced as it is not wind proof and has areas of rot;
  - b) The living room window is not wind proof. It requires to be repaired or replaced;
  - c) The living room door has the door latch missing, this requires to be replaced;
  - d) The living room main light does not work and trips the main fuse board with used. This requires to be repaired;
  - e) The kitchen down lights require to be repaired as only 1 works;
  - f) The kitchen hot water tap does not work. This requires to be replaced or repaired;
  - g) The kitchen door to the garden has a loose handle. It requires to be repaired or replaced;
  - h) the bathroom lights do not work. These require to be replaced or repaired;
  - i) The rear bedroom window is not wind proof and is also loose. The window is to be repaired or replaced;
  - j) The rear bedroom light works intermittently. This should be rectified to enable the light to work at all items;
  - k) The rear bedroom door has missing handles and components due to a faulty. These are required to be replaced;
  - l) The front bedroom window is not wind and waterproof. The window requires be repaired or replaced;
  - m) The door in the front bedroom that leads to the attic has missing handles and component due to a faulty. The handles require to be replaced;
  - n) The wall in the staircase leading to the attic has mould or damp. This cause of this should be investigated and the appropriate action to repair this;

- o) The attic lights do not work and trip the fuse board. This requires be repaired;
  - p) The attic skylight is not wind proof. This requires to be repaired or replaced;
  - q) The attic skylight frame requires to be painted;
  - r) The rhones and downpipes require repainting;
  - s) Work should be undertaken to secure that the coping stones in the rear garden wall between the neighbours are secure; and
  - t) Work should be undertaken to ensure that the decorative coping stones in the rear garden are secure.
6. The Tribunal served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon the Third Party, the Landlord and the Tenant dated 26<sup>th</sup> July 2019. Representations were requested no later than 16<sup>th</sup> August 2019. The date for the inspection and hearing was noted as 30<sup>th</sup> August 2019.
7. On 30<sup>th</sup> August 2019, the Tribunal met to inspect the House. The Third Party was present. The Landlord neither appeared nor instructed a representative to appear. The Tribunal and that Third Party attended the hearing. The Third Party noted that it had been difficult to communicate with the Landlord which in turn meant it had been difficult to get repairs done. The Tenant moved out of the House between the application being made and the inspection.
8. A new inspection date and hearing was then fixed for 19<sup>th</sup> November 2019. Both parties were notified.
9. This case should be read with FTS/HPC/RP/19/0779. The same Tribunal had inspected the House on a separate application. An RSEO was put on the House as result. As at the date of the decision the RSEO remains in place as the works for it has not been completed.

### **The Inspection**

10. The Tribunal attended the House on the morning of 19<sup>th</sup> November 2019. It was a frosty but clear day. The Landlord and the Third Party were present. The Tenant had vacated the Property. The Landlord let the Tribunal into the House to carry out the inspection.
11. The House comprises a two-storey semi detached property, constructed of brick with a roughcast finish. The House has a shallow pitched and tiled roof. The House was furnished and there were floor coverings in place with exception of the bottom of the stairs and first floor landing.
12. Each point on the list submitted by the Third Party Applicant was inspected in turn.

13. The electricity was not on during the inspection. It was believed that there were insufficient funds in the card meter to allow the electricity to work.
14. During the inspection photographs were taken by the Tribunal and a schedule of photographs is attached to this decision.
15. The inspection was concluded and the Tribunal travelled to the venue for the hearing.

### **The Hearing**

16. The hearing took place at the Carers Centre, Seagate, Dundee. The Landlord and Mr Stuart Cuthill, the Third Party Applicant were present.
17. The list of complaints were discussed one by one.
18. The front door was discussed first. The Ordinary member noted that there were areas of rot on the door. The letterbox was hanging off the door. The door was not wind proof with nothing stopping the wind going through the letterbox. The door also did not fit the frame. It was also noted that the wood was going soft. The Ordinary member noted that it may be possible to repair the door but it maybe expensive and would be prudent to replace the door. Neither party had any comments on this point.
19. The living room window was discussed next. The Ordinary Member noted that the window was in such poor state that it should be repaired or replaced. The window was very loose. When the window was open the frame was quite jelly like with very little substance to it. The window can close but left a small gap. The window has no resistance which it would be expected to have had. It was noted that the rubber seals could be replaced as opposed to replacing the window but that this would not be a repair that would last for long. The Landlord queried if she completed the lower cost repair then would she be able to sell the House. It was confirmed to her that on the point of sale the new owner would take over all obligations. However, the Landlord informed that a failure to carry out the repairs to a standard that would meet the repairing standard could result in a failure to comply being lodged. It is at that point that the case would be referred to the police for prosecution with criminal charges.
20. The living room door latch was discussed next. The Ordinary Member noted that the latch was found to be missing. The door furniture needs to be repaired or replaced. Neither party commented on this.
21. The main light in the living room was discussed next. The Ordinary Member noted that the electricity was no on during the inspection. It could not be determined if was working or not. Given that there is currently an RSEO in place for the case FTS/HPC/RP/19/0779 requiring an up to date EICR the Tribunal was of the view that the first RSEO would cover this point. The

Tribunal noted that the earlier inspection under the above referred to case had found the light not to be working. Neither party commented on this.

22. The down lights in the kitchen were discuss next. The Tribunal were of the same view as of that in point 21 above that this would be covered by the RESO under case FTS/HPC/RP/19/0779. Neither party commented on this.
23. The Kitchen tap was discussed next. The Ordinary Member noted that the tap was not working. It will need to be repaired by a plumber. Neither party commented on this point.
24. The door to the garden from the kitchen was discussed next. The Ordinary member noted that the door was old but that it closed when pushed shut and kept on the latch. This met the repairing standard. Neither party commented on this point.
25. The bathroom lights were discussed next. At the earlier inspection the Tribunal had noted the poor condition of the bathroom lights and that they did not work. Although the Tribunal were of the same view as of that in point 21 above that this would be covered by the RESO under case FTS/HPC/RP/19/0779 it was considered that the lights would not be capable of repair and would have to be replaced. Neither party commented on this point.
26. The rear bedroom window was discussed next. The Ordinary member noted that the window tilted inwards and did not close properly. The frame was seen to be insubstantial and not long lasting. The window will need to be replaced. Neither party commented on this point.
27. The rear bedroom lights were discussed next. The Tribunal were of the same view as of that in point 21 above that this would be covered by the RESO under case FTS/HPC/RP/19/0779. Neither party commented on this.
28. The rear bedroom door was discussed next. The Ordinary Member noted that the handle was missing. The door needs to be replaced. Neither party commented on this.
29. The front bedroom window was discussed next. The Ordinary Member noted that the window would not close at all and tilted inwards. The top system for closing was out of place and would not go back in place to shut it. The window was clearly needed replaced as it was too old to repair. Neither party made comment on this point.
30. The attic door was discussed next. The Ordinary Member noted that the handle was missing. This needs to be replaced. Neither party made comment on this point.
31. The wall in the staircase leading to the attic was discussed next. The Ordinary Member noted that that there was damp clearly present in the corner at the bottom step. This area should be investigated and the

appropriate action to ensure that the damp is reduced to within an acceptable level or eliminated. Neither party made comment on this point.

32. It was not listed on the complaints but the Tribunal observed that the rear bedroom ceiling was bowed and showing signs of dampness. The Landlord commented that the attic window had been left open to cause rain to come in. It was now drying out. The Tribunal was of the view that it remained dangerous as it could collapse at any point.
33. The attic lights were discussed next. The Tribunal were of the same view as of that in point 21 above that this would be covered by the RESO under case FTS/HPC/RP/19/0779. Neither party commented on this.
34. The attic skylight was discussed next. The Ordinary member noted that the skylight was of reasonable quality. It was found to be not draughty on the day and the window fitted the frame. It was the view of the Tribunal that window was in working order and met the repairing standard. Neither party commented on this.
35. The frame of the attic window was discussed next. It was raised as a separate issue from the skylight itself. The Ordinary Member noted that the frame was in poor condition and needed to be redecorated. Neither party commented on this.
36. The rhones and downpipes were discussed next. The Ordinary Member noted that they were in good condition and in a similar condition to those at the houses located in close proximity to the House. The Tribunal considered that the repairing standard had been met. Neither party commented on this.
37. The coping stones in the back garden were discussed next. The Ordinary Member noted that right boundary wall had coping stones that were missing and needed to be replaced. Neither party commented on this.
38. The coping stones on the decorative wall within the garden were discussed. The Ordinary Member noted that the stones to the left and right of the steps were not secure and at risk of falling off the wall. They needed to be removed or made safe and secure. Neither party commented on this.
39. It was also noted by the Tribunal that the front garden had many miscellaneous items in it that needed to be removed.
40. The Tribunal discussed that the items where the repairing standard had not been met would be the subject of an RSEO. The Tribunal explained that there is a legal obligation to ensure that the RSEO is complied with or a failure to comply could be issued and result in a criminal prosecution.
41. The Landlord noted that she would not be renting out the House again. This was her first venture to letting a property. She had only let to the previous tenant but had decided to sell the House. She had been dealing with her own personal affairs that had restricted what she was able to allocate to the

maintenance of the House. She has not yet instructed a solicitor or estate agent to market the House. The Tribunal explained that an RSEO was going to be issued with a time limit that the Tribunal would expect to work detailed within it to be completed by. The Third Party Applicant advised that it would be prudent to instruct an electrician too as any damage resulting from the electrical fault could severely damage the House.

### **Summary of the issues**

42. The issue to be determined was whether the House meets the repairing standard as set out in section 13 of the Act and whether the Landlord has complied with the duty imposed on them by section 14(1)(b).

### **Findings of fact**

43. Having considered all the evidence, the Tribunal found the following facts to be established: -
- a) The tenancy is a short assured tenancy between the Landlord and the Tenant. The tenancy has been ongoing for approximately 10 years.
  - b) The Third Party applicant raised a number of complaints. The Tribunal found the majority of these complaints did not meet the repairing standard.
  - c) The Landlord has not completed work as ordered by the RSEO for case reference FTS/HPC/RT/19/0779

### **Observations**

44. The ceiling in the rear bedroom needs repaired as it is bulging as a result of rain coming in through the skylight being open in the attic room above. There is a serious and significant risk that the ceiling will collapse.
45. There are a number of miscellaneous items discarded in the front garden. These items should be removed.
46. The chimney stack in poor condition. The brickwork to the chimney stack and the concrete chimney slab is defective and needs to be repaired.

### **Reasons for the decision**

47. The Tribunal determined the application, having regard to the terms of the application, the written representations received prior to the hearing, the findings of their inspection and the representations of the Third Party Applicant and Landlord at the hearing.
48. 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.

49. The Tribunal was in no doubt, from its inspection, that the House did not meet the Repairing Standard.
50. There was no clear evidence to support that there was an EICR in place for the Property.
51. Accordingly, in view of its findings, the Tribunal had no option but to conclude that the Landlord and was in breach of the duty to comply with the Repairing Standard.
52. The Act states that where a Tribunal decides that a landlord has failed to comply with their duty to ensure a property meets the Repairing Standard, the Tribunal "must by order require the landlord to carry out such work".
53. The Tribunal accordingly determined to make a Repairing Standard Enforcement Order as required in terms of section 24(2) of the Act.

### **Decision**

- (a) The Tribunal accordingly determined that the Landlord had failed to comply with the duty imposed by Section 14(1)(b) of the Act.
- (b) The Tribunal proceeded to make a Repairing Standard Enforcement Order as required by section 24(1) which if the Landlord fails to comply with the RSEO the Landlord will have committed an offence liable on summary conviction to a fine not exceeding level 3 on the standard scale
- (c) The decision of the Tribunal was unanimous.

**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.

G Miller, Chair

9<sup>th</sup> December 2019

**Schedule of photographs of 50 Ravenscraig Road, Dundee, DD2 4ND**



Front elevation – 50 Ravenscraig Road, Dundee



Front door seen from inside. No letterbox cover, loose handle, deteriorating woodwork to base.

Photographs taken by M H T Andrew FRICS FAAV FARLA on 19<sup>th</sup> November 2019

## Schedule of photographs of 50 Ravenscraig Road, Dundee, DD2 4ND



Handle to opening section of living room window. Poor fitting, flexible upvc material allows draughts to enter in windy conditions.



Living room lights (could not be tested because power off)

Photographs taken by M H T Andrew FRICS FAAV FARLA on 19<sup>th</sup> November 2019

**Schedule of photographs of 50 Ravenscraig Road, Dundee, DD2 4ND**



Kitchen spotlights (could not be tested because power off)



Kitchen hot tap. Does not work on hot side (Cold ok)

**Schedule of photographs of 50 Ravenscraig Road, Dundee, DD2 4ND**



Kitchen door from exterior. Handle slightly loose but does hold door shut.



Bathroom lights rusty and not working

**Schedule of photographs of 50 Ravensraig Road, Dundee, DD2 4ND**



Rear bedroom window from exterior – does not close properly



Rear bedroom window handle does not work properly and window does not close

**Schedule of photographs of 50 Ravenscraig Road, Dundee, DD2 4ND**



Rear bedroom ceiling light. Ceiling in dangerous condition (may fall at any moment) due to leak in attic above



– no door furniture (handles and catch)

Rear bedroom door

**Schedule of photographs of 50 Ravenscraig Road, Dundee, DD2 4ND**



Front bedroom window does not close properly – No further than this possible.



Door to attic – only one handle and no catch

## Schedule of photographs of 50 Ravenscraig Road, Dundee, DD2 4ND



Plasterwork at base of attic stairs is defective / damp and requires investigation to establish cause and then repaired



Attic 'velux' skylight. Requires re-decoration

## Schedule of photographs of 50 Ravenscraig Road, Dundee, DD2 4ND



Rear gutters and downpipes in reasonable decorative order



Missing coping stone to be re-set and all others checked

Photographs taken by M H T Andrew FRICS FAAV FARLA on 19<sup>th</sup> November 2019

**Schedule of photographs of 50 Ravenscraig Road, Dundee, DD2 4ND**



Decorative coping stones – ensure these are properly fixed to base and sides (lack of cement between blocks at present)



Observation – Brickwork to chimney stack and concrete chimney slab (shared) defective and requires repair.