



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

**Statement of Decision of the First-tier Tribunal for Scotland  
(Housing and Property Chamber) under section 60(5) of the  
Housing (Scotland) Act 2006**

**Chamber Ref: FTS/HPC/RT/21/1900**

**31 Dunholm Terrace, Dundee, DD2 4NU being the property described in the Feu Disposition by City of Dundee District Council in favour of Patricia Anderson registered GRS (Angus) 27<sup>th</sup> April 1984 (“the Property”)**

**The Parties:-**

**Dundee City Council, Private Sector Services Unit, 5 City Square, Dundee, DD1 3BA (‘The Third Party’)**

**Patricia Anderson residing at Alamein Cottage, Montreathmont, Forfar, DD8 2TU (“The Landlord”)**

**Nicola McCready residing at 31 Dunholm Terrace, Dundee, DD2 4NU (‘the Tenant’)**

**Tribunal Members:**

**Jacqui Taylor (Chairman) and Andrew Murray (Ordinary Member)**

**1. Background**

The Tenant, Miss Nicola McCready, leases the Property from the Landlord in terms of the Short Assured Tenancy between the parties, which had been produced. The Third Party applied to the Tribunal for a determination of whether the Landlord has failed to comply with the duties imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 (‘the Act’).

**2. Application**

The application stated that they considered that the Landlord has failed to comply with her duty to ensure that the Property meets the repairing standard. They advised that the Property was not wind and watertight and in all other respects reasonably fit for human habitation; the structure and exterior of the Property are not in a reasonable state of repair and proper working order; the installations in the Property for the supply of water, gas and electricity and for sanitation, space heating and heating water are not in a reasonable state of repair and proper working order; any fixtures, fittings and appliances provided by the landlord under the tenancy are not in a reasonable state of repair and proper working order; any furnishings provided by the landlord under the

tenancy are not capable of being used safely for the purpose for which they are designed.

In particular the application stated :-

- 2.1 There was no Gas Safety Certificate in the property.
- 2.2 There was no Electrical Installation and Condition Report in the property.
- 2.3 The central heating system when operating makes "banging noises".
- 2.4 There is an issue with central heating in the property. Please undertake the necessary repairs to ensure that all radiators work to their full capacity, are leakfree and are fitted with the appropriate operating valve heads.
- 2.5 The sockets in the living room required to be secured to the wall.
- 2.6 The front living room window is not wind nor water proof. The hopper window has a locking problem.
- 2.7 The patio doors are not wind nor water proof, also there is a locking problem with the doors.
- 2.8 There is an issue with water leaking into the living room above the patio doors.
- 2.9 The kitchen door leading into the hall is not a good fit when closed.
- 2.10 The kitchen window above the sink is not wind nor water proof.
- 2.11 The kitchen window beside the back door is not wind nor water proof.
- 2.12 There is a leak from the kitchen sink.
- 2.13 There are a number of holes in the tiles in the kitchen
- 2.14 The downlights require to be rehoused into their sockets.
- 2.15 The extension lead in the kitchen be replaced with a permanent wired socket.
- 2.16 There is a water mark showing in the ceiling which indicates water damage.
- 2.17 The front door has a problem locking in **warm** weather.
- 2.18 There is a leak from the hall radiator
- 2.19 The thermostatic control head is missing from the radiator. Please replace the control head.
- 2.20 The stair carpet requires a professional clean due to a smell of cat urine from it.
- 2.21 The smell of cat urine also percolates from the wall in the same area. The wall should be treated and redecorated.
- 2.22 The upper floor hall window is not wind nor water proof it also cannot be opened.

- 2.23The upper hall electrical socket does not work correctly.
- 2.24The shower in the bathroom requires to be properly secured to the wall and the hole behind the shower covered over.
- 2.25The on/off switch to the shower works intermittently.
- 2.26The shower area requires to be re-grouted
- 2.27The sealant around the shower basin requires to be removed and resealed
- 2.28There are damaged tiles in the bathroom.
- 2.29The bathroom window is not wind nor rain proof.
- 2.30The radiator in the bathroom does not work.
- 2.31 The electrical socket located beside the door of the rear bedroom does not work.
- 2.32There is an issue with water leaking into the rear bedroom at the window area.
- 2.33The rear bedroom window is not wind nor water proof. The right-hand window pane cannot be opened.
- 2.34The external wall below and along from the window suffers from mould.
- 2.35The front bedroom windows are not wind nor water proof. The left-hand window cannot be opened and the right-hand window is difficult to open.
- 2.36There is a leak from the front bedroom radiator.
- 2.37There are signs of mould in the front bedroom wardrobe.
- 2.38There is water ingress at the rear of the property.
- 2.39The steps from the patio to ground level are not safe.
- 2.40One of the external lights above the kitchen door does not work.
- 2.41The Sky satellite is defective due to components hanging down from it.
- 2.42The external paths at the side and front of the house from the front gate require to be repaired or replaced due to their unsafe condition.
- 2.43The fence between the neighbour require to be secured please undertake the necessary repairs
- 2.44The steps leading from the front gate to the house are unsafe and required to be repaired or replaced.
- 2.45The gate at the front of the house requires maintenance to ensure that it is capable of being opened and closed by the tenant.
- 2.46The loft contains the previous tenants' belongings.
- 2.47The shed at the rear of the property contains the previous tenants' belongings and should be removed.

### **3. Notice of Acceptance**

On 17<sup>th</sup> August 2021, Martin McAllister, as Convenor of the First- tier Tribunal (Housing and Property Chamber), signed the Notice of Acceptance which stated that he had considered the application, comprising documents received on 9<sup>th</sup> August 2021 and he referred the application under Section 22 (1) of the Act to a Tribunal.

### **4. Case Management Discussion**

4.1 This case called for a conference call Case management Discussion (CMD) at 10am on 8<sup>th</sup> October 2021.

Stuart Cuthill of Dundee City Council attended the CMD and represented the Third Party.

The Landlord did not attend and was not represented. The Landlord's representative, David Christie, had previously confirmed to the Tribunal Administration in writing that he wished to attend the CMD. Consequently, the Tribunal were satisfied that the requirements of Tribunal Rule 29 had been met and proceeded with the CMD.

4.2 The Tribunal acknowledged that under normal circumstances, they would arrange for the Ordinary Member to carry out an inspection to assist in the determination by the Tribunal of the application. The Case Management Discussion (CMD) was arranged in order to discuss further procedure in the case and to ascertain if an inspection is required or if other evidence is available or can be agreed.

4.3:As a preliminary matter Stuart Cuthill agreed to the following amendments being made to the application:

The following items being removed from the application as they do not form part of the repairing standard:

46The loft contains the previous tenants' belongings.

47The shed at the rear of the property contains the previous tenants' belongings and should be removed.

The Tribunal advised that they would arrange an inspection of the Property.

### **5. Inspection**

The Tribunal attended at the Property at 11.30 am on 8<sup>th</sup> December 2021. The Tenant and Stuart Cuthill of Dundee City Council were present at the inspection. The Landlord was not present and she was not represented.

The Property 31 Dunholm Terrace, Dundee is a traditionally constructed 1980s semi-detached 2 storey dwelling in an estate of similar properties. The

Property has a pitched timber roof with concrete tiling; brick external walls; timber framed doors and windows and pvc rainwater goods. Internally the accommodation comprises lounge, kitchen, bedrooms, bathroom and stairwell/hallways.

The Tribunal inspected the alleged defects and found:-

5.1 There was no Gas Safety Certificate in the property. *Certificate provided dated 29 June 2021.*

5.2 There was no Electrical Installation and Condition Report in the property. The report has not been provided.

5.3 The central heating system when operating makes "banging noises" and

5.4 There is an issue with central heating in the property.

The system was not working properly.

5.5 The sockets in the living room required to be secured to the wall.

The electrical sockets in the living room were not secured to the wall.

5.6 The front living room window is not wind nor water proof. The hopper window has a locking problem.

The repairs had been completed.

5.7 The patio doors are not wind nor water proof, also there is a locking problem with the doors.

The repairs had been completed.

5.8 There is an issue with water leaking into the living room above the patio doors.

The repairs had been completed.

5.9 The kitchen door leading into the hall is not a good fit when closed.

The kitchen door was ill fitting and did not close properly.

5.10 The kitchen window above the sink is not wind nor water proof.

The repairs had been completed.

5.11 The kitchen window beside the back door is not wind nor water proof. The repairs had been completed.

5.12 There is a leak from the kitchen sink.

There was no evidence that there were leaks under the sink at the time of the inspection.

5.13 There are a number of holes in the tiles in the kitchen.

There were holes in the tiles of the kitchen wall.

5.14 The downlights require to be rehoused into their sockets.

The downlight bulbs were not secure in their housing.

5.15 The extension lead in the kitchen be replaced with a permanent wired socket.

An extension lead had been permanently installed in the kitchen.

5.16 There is a water mark showing in the ceiling which indicates water damage.

There was a water stain mark to the kitchen ceiling.

5.17 The front door has a problem locking in warm weather.

The repairs had been completed.

5.18 There is a leak from the hall radiator.

There was evidence that the hall radiator leaked at the inspection.

5.19 The thermostatic control head is missing from the radiator. Please replace the control head.

The thermostatic control head of the hall radiator was missing.

5.20 The stair carpet requires a professional clean due to a smell of cat urine from it.

There was no smell detected at the inspection.

5.21 The smell of cat urine also percolates from the wall in the same area. The wall should be treated and redecorated.

There was no smell detected at the inspection.

5.22 The upper floor hall window is not wind nor water proof it also cannot be opened.

The repairs had been completed.

5.23 The upper hall electrical socket does not work correctly.

The upper hall electrical socket was faulty.

5.24 The shower in the bathroom requires to be properly secured to the wall and the hole behind the shower covered over.

The repairs had been completed.

5.25 The on/off switch to the shower works intermittently.

The on/off switch to the shower did not work correctly.

5.26 The shower area requires to be re-grouted.

The grouting of the shower area was defective.

5.27 The sealant around the shower basin requires to be removed and resealed.

The sealant was covered in black mould.

5.28 There are damaged tiles in the bathroom.

The tiles were cracked.

5.29 The bathroom window is not wind nor rain proof.

The repairs had been completed.

5.30The radiator in the bathroom does not work.

The radiator did not work at the inspection.

5.31 The electrical socket located beside the door of the rear bedroom does not work.

The electrical socket was defective.

5.32There is an issue with water leaking into the rear bedroom at the window area.

The repairs had been completed.

5.33The rear bedroom window is not wind nor water proof. The right-hand window pane cannot be opened.

The repairs had been completed.

5.34The external wall below and along from the window suffers from mould.

There was no evidence of mould at the inspection.

5.35The front bedroom windows are not wind nor water proof. The left-hand window cannot be opened and the right-hand window is difficult to open.

The repairs had been completed.

5.36There is a leak from the front bedroom radiator.

There was evidence of a leak to the radiator.

5.37There are signs of mould in the front bedroom wardrobe.

There was no evidence of mould at the inspection.

5.38There is water ingress at the rear of the property.

The repairs had been completed.

5.39The steps from the patio to ground level are not safe.

The external steps from the patio to ground level were uneven and loose.

5.40One of the external lights above the kitchen door does not work.

The external lights did not work.

5.41The Sky satellite is defective due to components hanging down from it. A component of the satellite dish is loose and hanging below the dish on a wire.

5.42The external paths at the side and front of the house from the front gate require to be repaired or replaced due to their unsafe condition.

The paths at the side and front of the property are cracked and uneven.

5.43The fence between the neighbour require to be secured please undertake the necessary repairs.

The rear boundary fence was loose and not secure.

5.44The steps leading from the front gate to the house are unsafe and required to be repaired or replaced.

The steps at the front of the property are uneven and not secure.

5.45 The gate at the front of the house requires maintenance to ensure that it is capable of being opened and closed by the tenant.

The garden gate does not close properly.

Photographs were taken during the inspection and are attached as a Schedule to this Decision.

## **6. Hearing**

This case called for a conference call Hearing at 10.00am on 11<sup>th</sup> March 2022. The Tenant and Stuart Cuthill of Dundee City Council attended the Hearing. The Landlord did not attend and she was not represented. In connection with the matters detailed in the application the Tenant and Stuart Cuthill advised as follows:

6.1 There was no Gas Safety Certificate in the property.

The Certificate dated 29 June 2021 had been provided.

6.2 There was no Electrical Installation and Condition Report in the property.

No EICR report has been provided.

6.3 The central heating system when operating makes "banging noises" and

6.4 There is an issue with central heating in the property.

The central heating system has not been repaired.

6.5 The sockets in the living room required to be secured to the wall.

The electrical sockets in the living room were not secured to the wall.

6.6 The front living room window is not wind nor water proof. The hopper window has a locking problem.

The repairs have been satisfactorily completed.

6.7 The patio doors are not wind nor water proof, also there is a locking problem with the doors.

The repairs have been satisfactorily completed.

6.8 There is an issue with water leaking into the living room above the patio doors.

The repairs have been satisfactorily completed.

6.9 The kitchen door leading into the hall is not a good fit when closed.

The door has not been repaired.

6.10 The kitchen window above the sink is not wind nor water proof.

The repairs have been satisfactorily completed.

6.11 The kitchen window beside the back door is not wind nor water proof.  
The repairs have been satisfactorily completed.

6.12 There is a leak from the kitchen sink.  
The repairs have been satisfactorily completed.

6.13 There are a number of holes in the tiles in the kitchen.  
The repairs are still outstanding.

6.14 The downlights require to be rehoused into their sockets.  
The downlight bulbs have not been repaired.

6.15 The extension lead in the kitchen be replaced with a permanent wired socket.  
A replacement socket has not been installed.

6.16 There is a water mark showing in the ceiling which indicates water damage.  
The water stain mark to the kitchen ceiling has not been repaired.

6.17 The front door has a problem locking in warm weather.  
The repairs have been satisfactorily completed.

6.18 There is a leak from the hall radiator.  
The hall radiator has not been repaired.

6.19 The thermostatic control head is missing from the radiator.  
The thermostatic control head has not been replaced.

6.20 The stair carpet requires a professional clean due to a smell of cat urine from it and

6.21 The smell of cat urine also percolates from the wall in the same area.  
The Tenant advises that she still has to spray anti odour products in the area.

6.22 The upper floor hall window is not wind nor water proof it also cannot be opened.  
The repairs have been satisfactorily completed.

6.23 The upper hall electrical socket does not work correctly.  
The electrical socket has not been repaired.

6.24 The shower in the bathroom requires to be properly secured to the wall and the hole behind the shower covered over.  
The repairs have been satisfactorily completed.

6.25 The on/off switch to the shower works intermittently.  
The on/off switch has not been repaired.

6.26 The shower area requires to be re-grouted  
The grouting of the shower area has not been repaired.

6.27 The sealant around the shower basin requires to be removed and

resealed

The sealant has not been repaired.

6.28 There are damaged tiles in the bathroom.

The tiles have not been repaired.

6.29 The bathroom window is not wind nor rain proof.

The repairs have been satisfactorily completed.

6.30 The radiator in the bathroom does not work.

The radiator has not been repaired.

6.31 The electrical socket located beside the door of the rear bedroom does not work.

The electrical socket has not been repaired.

6.32 There is an issue with water leaking into the rear bedroom at the window area.

The repairs have been satisfactorily completed.

6.33 The rear bedroom window is not wind nor water proof. The right-hand window pane cannot be opened.

The repairs have been satisfactorily completed.

6.34 The external wall below and along from the window suffers from mould.

The Tenant confirmed that she washes away the mould.

6.35 The front bedroom windows are not wind nor water proof. The left-hand window cannot be opened and the right-hand window is difficult to open.

The repairs have been satisfactorily completed.

6.36 There is a leak from the front bedroom radiator.

The radiator has not been repaired.

4.37 There are signs of mould in the front bedroom wardrobe.

The Tenant confirms that she washes away the mould.

6.38 There is water ingress at the rear of the property.

The repairs have been satisfactorily completed.

6.39 The steps from the patio to ground level are not safe.

The Landlord has carried out some repairs to the steps.

6.40 One of the external lights above the kitchen door does not work.

The external light has not been repaired.

6.41 The Sky satellite is defective due to components hanging down from it. The satellite dish has not been repaired.

6.42 The external paths at the side and front of the house from the front gate require to be repaired or replaced due to their unsafe condition.

The Landlord has carried out some repairs to the paths at the side and front

of the property.

6.43 The fence between the neighbour require to be secured.

The Landlord had carried out some repairs to the fence.

6.44 The steps leading from the front gate to the house are unsafe and required to be repaired or replaced.

The Landlord had carried out some repairs to the steps.

6.45 The gate at the front of the house requires maintenance to ensure that it is capable of being opened and closed by the tenant.

The garden gate has been satisfactorily repaired.

## **7. Decision**

7.1 The Tribunal determined that the Gas Safety Certificate dated 29 June 2021 was valid and confirmed that the as installation was safe at the date of the certificate.

7.2 The Tribunal also determined that the living room window, the patio doors, the kitchen windows, the kitchen sink, the front door, the upper floor hall window, the shower in the bathroom, the bathroom window, the rear bedroom window, the front bedroom window, the water ingress at the rear of the Property and the front gate of the Property had all been satisfactorily repaired and complied with the repairing standard.

7.3 The Tribunal found that there was no evidence of a small of cat urine on the stair carpet or the hall wall at the inspection.

7.4 The Tribunal found that there was no evidence of mould in the property at the inspection.

7.5 In connection with the remaining issues to matters:-

7.5.1 The structure and exterior of the Property (including drains, gutters and external pipes) are not in a reasonable state of repair and proper working order (Section 13(1) (b) of The Housing (Scotland) Act 2006).

The Tribunal have to determine if the condition of the:

- (i) Kitchen ceiling
- (ii) The steps from the patio to ground level
- (iii) The external paths at the side and front of the Property
- (iv) The fence between the neighbouring property and
- (v) The steps leading from the front gate to the Property

results in them not being in a reasonable state of repair and proper working order.

The Tribunal found as a matter of fact that the Kitchen ceiling is stained and the steps from the patio to ground level, the external paths, the garden boundary fence and the steps leading from the front gate were not in a reasonable state of repair at the date of the inspection by the Tribunal on 8th December 2021. They acknowledged that these items had been repaired by the Landlord but no evidence had been provided by the Landlord that these items now comply with the Repairing Standard.

Consequently, the Tribunal determine that the kitchen ceiling, the steps from the patio to ground level, the external paths at the side and front of the Property, the fence between the neighbouring property and the steps leading from the front gate of the Property are not in a reasonable state of repair and proper working order.

7.5.2 The installations in the house for the supply of water, gas and electricity and for sanitation, space heating and heating water are not in a reasonable state of repair and proper working order (Section 13(1) (c) of The Housing (Scotland) Act 2006).

The Housing (Scotland) Act 2014 introduced the requirement for landlords to have an Electrical Installation Condition Report (EICR) carried out on all electrical installations, fixtures and fittings within their rental properties. All tenancies must have a valid EICR, a copy of which must be provided to the tenant. The EICR lasts for 5 years and must include Portable Appliance Tests (PAT) for all electrical appliances within the tenancy supplied by the landlords.

Therefore the Tribunal have to consider if a valid EICR certificates been provided and furthermore, notwithstanding the presence of the required certification, to consider if the apparent condition of the installations give cause for concern sufficient to render these not in a reasonable state of repair and in proper working order

The Tribunal determine that no valid EICR certificate has been provided for the Property.

In addition, the Tribunal have to consider whether the condition of the:

- (i) Central heating system
- (ii) The electrical sockets in the living room
- (iii) The downlights in the kitchen
- (iv) The fitted extension lead in the Kitchen
- (v) The hall radiator
- (vi) The upper hall electrical socket.
- (vii) The on/off switch to the shower
- (viii) The radiator in the bathroom
- (ix) The electrical socket beside the door of the rear bedroom
- (x) The front bedroom radiator

results in them not being in a reasonable state of repair and proper working order.

The Tribunal found as a matter of fact that these items were not in a reasonable state of repair and proper working order at the date of the inspection carried out by the Tribunal on 8<sup>th</sup> December 2021.

7.5.3 The fixtures, fittings and appliances provided by the Landlords under the tenancy are not in a reasonable state of repair and proper working order (Section 13(1) (d) of The Housing (Scotland) Act 2006).

Whether the condition of the:

- (i) The kitchen door leading into the hall
- (ii) The tiles in the kitchen
- (iii) The shower basin
- (iv) The bathroom tiles
- (v) The external light above the kitchen door and
- (vi) The Sky Satellite dish

result in them not being in a reasonable state of repair and proper working order.

The Tribunal found as a matter of fact that these items were not in a reasonable state of repair and proper working order at the date of the inspection carried out by the Tribunal on 8<sup>th</sup> December 2021.

7.6. The Tribunal accordingly determined that the Landlords have failed to comply with the duties imposed by Sections 13 (1)(b)(c) and (d) of the Act, as stated.

7.7. The decision of the Tribunal was unanimous.

## **8. Appeal**

**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.**

# J Taylor

Signed

A simple, handwritten signature consisting of a single, curved line.

Chairperson

Date: 15<sup>th</sup> March 2022