Housing and Property Chamber
First-tier Tribunal for Scotland

Statement of Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber)

(Hereinafter referred to as "the tribunal")

Under Section 24(1) of the Housing (Scotland) Act 2006 ("the Act")

Case Reference Number: FTS/HPC/RP/26/2396

Re: 9 Kenmuiraid Place, Bellshill, North Lanarkshire, ML4 2AL ("the house")

Land Register Title No: LAN13345

Mr Stephen Swiffen, Ms Tracie Ann Smith, Ms Gemma Stannway, 9 Kenmuiraid Place, Bellshill, North Lanarkshire, ML4 2AL ("the Tenants")

Ms Julie Paszkiewicz, 65 Winning Quadrant, Wishaw ML4 2AL ("the Landlord")

Sarah O'Neill (Legal Member) and Andrew McFarlane (Ordinary (Surveyor) Member)

Decision

The tribunal, having made such enquiries as it saw fit for the purposes of determining whether the landlord has complied with the duty imposed on her by Section 14 (1) (b) of the Housing (Scotland) Act 2006 ("the Act") in relation to the house, and taking account of all the available evidence, determines that the landlord has failed to comply with the said duty. The tribunal therefore issues a Repairing Standard Enforcement Order. The tribunal's decision is unanimous.

Background

1. The tribunal had previously considered another repairing standard application (reference no: FTS/HPC/RP/25/2643) made by the tenants against the landlord in respect of the house. The tribunal issued a decision and a Repairing Standard Enforcement Order (RSEO) regarding that application on 22 May 2026.

2. By a further application received from the first named tenant, Mr Swiffen, on behalf of all three tenants on 27 May 2026, the tenants applied to the tribunal for a determination that the landlord had failed to comply with her duty under Section 14(1) of the Act. Further to a request from the tribunal administration, further information was received from Mr Swiffen on 29 May 2026. This included a copy of a repairs notification letter dated 29 May 2026 addressed to the landlord. Further information was received from Mr Swiffen on 22 July 2026, including an application form dated 22 July 2026 and copies of two further repairs notification emails sent to the landlord on 23 April and 27 May 2026.

3. In their application, the tenants stated that they believed the landlord had failed to comply with her duty to ensure that the house met the repairing standard as set out in section 13 (1) (b), (c), (d) and (h) of the Act. Their application stated that the landlord had failed to ensure that:

    - 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
    - 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
    - any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order
    - the house meets the tolerable standard in the following respects:
        - in the case of a house having a supply of electricity, complies with the relevant requirements in relation to the electrical installation for the purposes of that supply
        - it has a water closet or waterless closet available for the exclusive use of the occupants of the house and suitably located within the house
        - it has a fixed bath or shower and a wash-hand basin, each provided with a satisfactory supply of both hot and cold water and suitably located within the house

4. While a number of other complaints were included in the various notification letters/emails sent to the landlord, the tenants confirmed in their application form of 22 July 2026 that they wished to confine their application to the following complaints only:

    1) Electrical intake/main fuse/ cut-out safety referral and outcome
    2) Bathroom recessed downlight suitability

3) Repair of the dormer/second-floor WC, cold tap, leaks and loose plumbing fittings
4) Investigation and repair of the bathroom floor, whose movement has worsened and is now audibly creaking under normal footfall.

5. On 24 August 2026, a notice of acceptance of the application was issued by a Convener with delegated powers of the Chamber President. An inspection and hearing were arranged for 19 October 2026. A re-inspection was arranged in relation to the previous repairing standard application (reference no: FTS/HPC/RP/25/2643) at the same date and time.

6. The parties were invited to submit written representations no later than 2 October 2026.

7. Written representations were received from the tenants on 24 September and 5, 7, 8 and 9 October, and from the landlord on 14 September and 8 October 2026.

8. Further to these written representations, the tribunal issued a direction to the parties on 9 October 2026. In its direction, the tribunal confirmed that the inspection on 19 October 2026 would be followed by a hearing on the present application only. The parties were notified with regard to application reference no: FTS/HPC/RP/25/2643 that the purpose of the re-inspection was solely to re-inspect the property with regard to the requirements contained in its RSEO dated 21 May 2026 and varied on 23 July 2026. The tribunal explained the subsequent process to be followed with regard to that application.

9. In the direction, the tribunal also confirmed that it would not contact any third party or proposed witness. It was for parties to submit any relevant evidence which they wish to bring to the attention of the tribunal. The tribunal also directed the parties to treat each other with respect and courtesy throughout the proceedings. Finally the tribunal noted that it is an impartial judicial body, and would make its decisions on both applications following an objective assessment of all of the evidence before it.

10. A response was received from the landlord on 13 October 2026.

The inspection

11. The tribunal inspected the house on the morning of 19 October 2026. The weather conditions at the time of the tribunal's inspection were cold, overcast and dry. Two of the tenants, Mr Swiffen and Ms Smith, were present and allowed the tribunal access for the inspection. The landlord and

her husband and representative, Mr Adrian Paszkiewicz, also attended the inspection.

12. Photographs were taken during the inspection. These are attached as a schedule to this decision.

The house

13. The house was originally a two-storey mid-terraced villa constructed originally for the local authority. It is around 70-80 years old. About 15 years ago the property was extended into the roof void with a dormer window to the rear and Velux style windows to other apartments at this level. The house now comprises five bedrooms, living room, kitchen, bathroom (on the first floor/second storey), shower room with WC (on the second floor/third storey) and hallway.

The hearing

14. Following the inspection, the tribunal held a hearing at Hamilton Brandon Gate, Hamilton.

15. Mr Swiffen and Ms Smith were present and were represented by Mr Swiffen. The landlord was also present at the hearing, and was represented by Mr Paszkiewicz.

Preliminary issues

16. The legal member noted that, while Mr Paszkiewicz had been appointed by the landlord as her representative with regard to case reference no: FTS/HPC/RP/25/2643, he did not appear to have been so appointed in relation to the present application. The landlord indicated that she wished Mr Paszkiewicz to represent her at the present hearing. It appeared that neither the landlord or Mr Paszkiewicz had been aware that this should have been notified to the tribunal prior to the hearing in terms of the tribunal's rules.

17. Mr Swiffen said that the tenants did not have any objection to Mr Paszkiewicz acting as the landlord's representative. The tribunal considered that it would be in the interests of justice for Mr Paszkiewicz to act as the landlord's representative and therefore allowed him to do so.

18. The legal member explained to the parties that while the tribunal was aware that there were other ongoing tribunal applications involving the parties, it would be considering the present application only at the hearing. With regard to case reference no: FTS/HPC/RP/25/2643, a re-inspection report would be sent to the parties and they would have the opportunity to make written

submissions in response to this prior to the compliance hearing which had been fixed for 23 November 2026.

The evidence

19. The evidence before the tribunal consisted of:

- The application paperwork submitted by the tenants.
- Notification letters /emails dated 23 April and 27 and 29 May 2026 to the landlord from the tenants setting out the alleged outstanding repairs issues.
- Land certificate (title No: LAN13345) relating to the house.
- Landlord registration details relating to the house.
- Tenancy agreement between the parties relating to the house, which commenced on 18 June 2024.
- Written representations received from the tenants on 24 September and 5, 7, 8 and 9 October, and from the landlord on 14 September and 8 and 13 October 2026.
- Electrical Installation Condition Report (EICR) and PAT test certificate relating to the house produced by TMC Electrical Services, Newmains dated 23 April 2026
- The tribunal's inspection of the house.
- The parties' oral representations at the hearing.

Summary of the issues

20. 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 by section 14 (1) (b).

Findings in fact

21. The landlord is the owner of the house.

22. The landlord is the registered landlord for the house.

23. The parties entered into a private residential tenancy agreement relating to the house on 18 June 2024.

24. The tenants notified the landlord of the required repairs on 23 April and 27 and 29 May 2026.

25. The EICR and PAT test certificate dated 23 April 2026 were produced by a suitably qualified and registered SELECT contractor. THE EICR stated that the electrical installation was satisfactory and made several category C3

recommendations (i.e. improvement recommended). The PAT test certificate showed that all appliances tested passed the inspection.

26. At its inspection, the tribunal carefully checked the items which were the subject of the complaint. The tribunal observed the following:

    a) The main incoming electrical supply is located within a cupboard in the hallway at ground level. This takes the form of a cable which terminates in a fused connection. The fuse was noted to be surrounded by tape (photograph 1 of the photograph schedule).
    b) Recessed downlights were installed within the bathroom ceiling (photographs 2 and 3).
    c) The WC in the shower room was flushing correctly (photograph 4).
    d) The bath cold tap in the second storey bathroom operated correctly when it was initially turned on. When it was then turned off, water continued to flow from it (photographs 5-7).
    e) The radiator in the bathroom was observed not to be leaking.
    f) The radiator in the bathroom was securely attached to the wall.
    g) The floor in the bathroom was found to creak in several areas when walked over in a normal manner. There was some movement which did not affect the structural elements.

Reasons for decision

27. In making its decision, the tribunal carefully considered all of the evidence before it. In doing so, it applied the civil burden of proof, which is the balance of probabilities.

28. The tribunal considered each of the tenants' outstanding complaints in turn, as set out below.

    1. **Electrical intake/main fuse/ cut-out**

29. At its inspection, the tribunal observed that the main incoming electrical supply is located within a cupboard in the hallway at ground level. This takes the form of a cable which terminates in a fused connection. The fuse was noted to be surrounded by tape.

30. The tribunal asked Mr Swiffen to explain why the tenants considered that this did not meet the repairing standard. Mr Swiffen said that if the fuse came loose, it could track, create heat and burst into flames. He pointed out that the EICR stated that another EICR would be required within a year. This was unusual, as the usual period was 5 years. He said that he had previously been qualified in electrical matters in England. He said that this issue

concerned the supply of electricity into the house, rather than the distribution board. He suggested that the electrical contractor who had produced the EICR was not qualified to comment on this issue. It should be checked with the electricity network operator.

31. Mr Paszkiewicz said that he did not understand why the tenants had concerns about this. The landlord had the electrical installation checked by a qualified contractor, and had also obtained a Domestic Electrical Installation Certificate for the shower room within the last few years, which had been signed off by a qualified electrician. He accepted that the EICR had noted some minor issues, which the landlord planned to address before selling the property.

32. The tribunal noted that the EICR dated 23 April 2026, which remains current and was produced by a suitably qualified and registered SELECT contractor, states that the electrical installation was in a satisfactory and safe condition.

33. There were no category C1 or C2 observations with regard to the main fuse. It is clearly stated in the EICR under heading 1.0 on page 3 that where inadequacies in the intake equipment are found, the person ordering the work must be informed. It is also stated that where inadequacies are found, an "X" should be put against the appropriate item and comment made in section K. The contractor had not included an "X" and noted only a category C3 observation relating to the service head. It is noted in relation to this (on page 2 of the EICR) that electrical tape had been used to keep the main fuse in the correct position.

34. Section 13 (7) (b) of the Act states that in determining whether a house meets the repairing standard, regard is to be had to any related guidance issued by the Scottish Ministers, including any such guidance in relation to electrical safety standards in relation to—

    (i) installations for the supply of electricity, and

    (ii) electrical fixtures, fittings and appliances,

35. The Scottish Government's current Repairing Standard Statutory Guidance notes at paragraph D.67 that any element of the electrical installations, fixtures, fittings or equipment recorded in Section K of the EICR as being an observation with Classification Code C1 (Danger present) or C2 (potentially dangerous) must be rectified to comply with the repairing standard.

36. It goes on to state, at paragraph D.70 (on page 43): "Where an item is given a Classification Code C3, this is a recommended improvement. An observed inadequacy in this category is not considered to be a source of immediate

or potential danger. Whilst remedial action is not necessarily required to meet with the Repairing Standard, such improvements would contribute to an enhancement of the safety of the electrical installation. Therefore, landlords should consider addressing these items where possible".

37. The tribunal accepts that it is unusual to require another EICR to be obtained within one year, rather than five. It is unclear why this was specified by the electrical contractor who produced the EICR. Having had regard to the EICR and the statutory guidance, however, the tribunal determines that the electrical intake/main fuse is in a reasonable state of repair and in proper working order. The tribunal also determined that the house meets the tolerable standard in relation to the electrical installation for the purposes of its electricity supply.

38. The tribunal observes, however, that the landlord may wish to consider addressing the C3 issue identified, as recommended in the statutory guidance, which is quoted at paragraph 36 above.

2. **Bathroom recessed downlight suitability**

39. During its inspection, the tribunal observed that recessed downlights were installed within the bathroom ceiling.

40. Mr Swiffen said that he did not consider that the downlights met the requirements for bathroom lighting. He said that they were just standard GU10 lights. These are not insulated at the back and the wires are therefore open to steam. This could cause the connectors to corrode which could lead to them going on fire.

41. Mr Paszkiewicz said that the lights had been installed more than 15 years ago, and there had never been any issues with them. He was unable to comment beyond that, other than to say that the electrical installation had been signed off by a qualified electrician.

42. The tribunal noted that the EICR raised no concerns with regard to the downlights. At the relevant section under heading 6 (location(s) containing a bath or shower) on page 4, the contractor had added a tick against part 6.6 (suitability of equipment for external influences for installed location in terms of IP rating), indicating that this was in an acceptable condition.

43. Having had regard to the EICR and the statutory guidance, the tribunal therefore determines on the balance of probabilities that the downlights are in a reasonable state of repair and in proper working order.

3. **Dormer/second-floor WC, cold tap, leaks and loose plumbing fittings**

44. It was unclear to the tribunal based on the case file exactly what these complaints referred to. The tenants confirmed at the inspection regarding the WC that this was in fact a reference to the WC in the shower room. They confirmed that this had now been fixed. When tested by the tribunal, it was found to flush correctly. It was therefore in a reasonable state of repair and in proper working order.

45. With regard to the cold tap, the tenants clarified that this referred to the cold bath tap in the bathroom. At its inspection, the tribunal found that the tap operated correctly when it was initially turned on. When it was then turned off, water continued to flow from it.

46. Mr Paszkiewicz accepted that the tap required to be replaced and indicated the landlord's willingness to do so. He stated that the difficulty, however, was obtaining access to carry out works.

47. The tribunal determined that at the time of its inspection, the cold bath tap in the bathroom was not in a reasonable state of repair and in proper working order. The tribunal notes, however, that it expects the tenants to allow the landlord access to carry out any repair or replacement of the tap.

48. The tribunal notes that on their application form, the tenants had ticked the boxes relating to the tolerable standard with regard to the provision of: 1) a water closet or waterless closet available for the exclusive use of the occupants of the house and suitably located within the house and 2) a fixed bath or shower and a wash-hand basin, each provided with a satisfactory supply of both hot and cold water and suitably located within the house. These relate to whether a WC, bath or shower and wash-hand basin are in existence within the house at all. As these are clearly provided within the house, the tribunal determines that the house meets the tolerable standard in both respects.

49. Regarding the leaks and loose plumbing fittings referred to, the tenants confirmed that these both related to the radiator in the bathroom.

50. At its inspection, the tribunal observed that the radiator was not leaking. It was also securely fixed to the wall.

51. Mr Swiffen said that the radiator leak was an intermittent fault. He said that the floor was discoloured underneath due to the leak.

52. Mr Paszkiewicz suggested that any water underneath the radiator could be due to condensation after use of the shower.

53. The tribunal notes that the tenants had previously complained about the bathroom radiator leaking as part of application reference no: FTS/HPC/RP/25/2643. The tribunal had therefore previously determined this complaint. It had in any case found in relation to that application that the radiator was not leaking at the time of its inspection.

54. The tribunal determined that at the time of its inspection, the bathroom radiator was in a reasonable state of repair and in proper working order.

4. **Investigation and repair of the bathroom floor**

55. The tenants had previously complained that the floor in the bathroom "feels squishy", as part of application reference no: FTS/HPC/RP/25/2643. The tribunal had determined that the floor was in a reasonable state of repair and in proper working order at the time of its inspection.

56. In the present application, the tenants argued that the movement has worsened and is now audibly creaking under normal footfall. The complaint was accepted on that basis.

57. During the tribunal's inspection, the floor was found to creak in several areas when walked over in a normal manner. There was some movement which did not affect the structural elements.

58. The surveyor member invited both Mr Swiffen and Mr Paszkiewicz to walk across the floor. Mr Paszkiewicz declined to do so. Mr Swiffen walked across the floor and indicated a few specific areas, in line with the handle on the edge of the bath and between there and the door to the hallway/landing where he believed that the floor was moving. Some creaking was heard and some movement underfoot was observed by the surveyor member of the tribunal when walking on the floor.

59. Mr Paszkiewicz said that the wooden floor underneath the linoleum was intended to flex. The floor was made from the original floorboards going back to the 1940s when the house was built. An additional layer of 6mm plywood had later been added on top to even out gaps between the slats. This was standard practice in bathrooms. The floor was structurally sound. There was no evidence of water damage.

60. Mr Swiffen expressed the view, as he had done at the hearing on the previous application, that the plywood used was insufficient for its purpose.

He said that the issues with the floor had worsened since the tribunal's original inspection in relation to the previous application.

61. The tribunal noted that, while the floor may creak and move slightly when walked on, there was nothing to suggest that it was water damaged, and there was no indication of any deficiency in the structural elements which raised any health and safety issues. It therefore determined that on the balance of probabilities, the floor was in a reasonable state of repair and in proper working order.

Summary of decision

62. On the basis of all the evidence before it, the tribunal determined that the landlord had failed to comply with the duty imposed by section 14(1) (b) of the Act. In particular, the landlord has failed to ensure that the house meets the repairing standard in that the cold bath tap, which falls into the category of fixtures, fittings and appliances, is not in a reasonable state of repair and in proper working order.

63. The tribunal therefore makes a Repairing Standard Enforcement Order (RSEO) as required by section 24 (2) of the Act.

Rights of Appeal

1. 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.

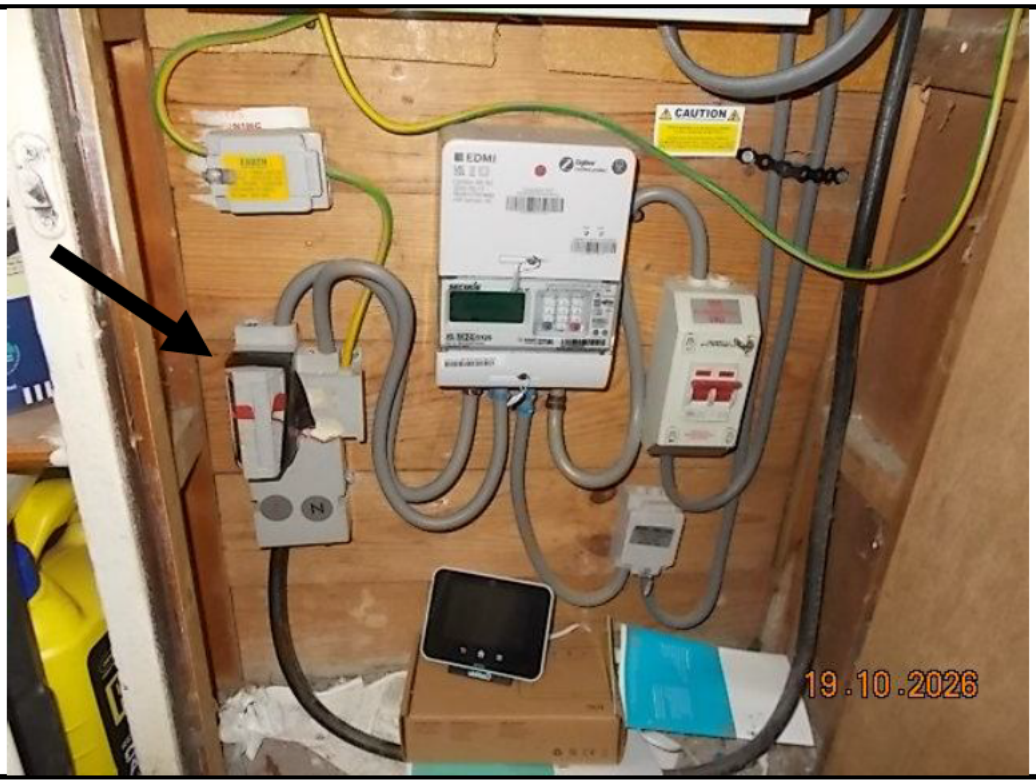
2. Where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by the Upper Tribunal, and where the appeal is abandoned or finally determined by upholding the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.

SARAH O'NEILL

Signed Date 26 October 2026
Sarah O'Neill, Chairperson

Property Address	9 Kenmuiraid Place Bellshill Lanarkshire ML4 2AL
Case Reference	FTS HPC RP 26 2396

Schedule of Photographs taken during the inspection by tribunal members on 19 October 2026



1. Incoming electrical supply (taped area arrowed)



2. Bathroom recessed downlights



3. Bathroom recessed downlights



4. Shower Room WC



5. Bathroom bath tap “closed” with water flowing



6. Bathroom bath tap “open” with water flowing



7. Bathroom bath tap position to stop water flowing