



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 51 Private Housing
(Tenancies) (Scotland) Act 2016 (“the 2016 Act”)**

Chamber Ref: FTS/HPC/EV/25/4979

Property at 73B Charlotte Street, Aberdeen, AB25 1LY (“the Property”)

Parties:

**AMD Properties (Aberdeen) Ltd, Ledingham Chalmers, Johnston House, 51/53
Rose Street, Aberdeen, AB10 1HA (“the Applicant”)**

**Mr Graham John Shaw, 73B Charlotte Street, Aberdeen, AB25 1LY (“the
Respondent”)**

Tribunal Members:

Josephine Bonnar (Legal Member) and Frances Wood (Ordinary Member)

Decision

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that an eviction order should not be granted against the
Respondent in favour of the Applicant. The application is refused.**

Background

- 1. The Applicant seeks an eviction order in terms of Section 51 and ground 3 of
Schedule 3 of the 2016 Act. A number of documents were lodged with the
application including an estimate for the installation of new kitchen and
bathroom at the property.**
- 2. A copy of the application was served on the Respondent, and both parties were
notified that a case management discussion (“CMD”) would take place by
telephone conference call on 24 June 2026 at 10am. Prior to the CMD, the
Respondent lodged written submissions and documents.**
- 3. The CMD took place on 24 June 2026. The Applicant was represented by Ms
Cook and Ms Deans. The Respondent participated.**

4. In response to questions from the Tribunal Mr Shaw confirmed that the application is opposed. He told the Tribunal that he has lived at the property since 2015, initially under a short assured tenancy. He signed a PRT at the end of July 2025 and received the Notice to leave by email on 19 August 2025. He confirmed that the application is opposed on three grounds. Firstly, he does not believe that the Respondent has established that they intend to carry out the work. Secondly, he believes that the planned work could be carried out with him in occupation and thirdly, the work is unnecessary.
5. Mrs Cook told the Tribunal that the Applicant intends to replace the kitchen and bathroom and improve insulation at the property to meet current standards. They plan to do all the work at the same time, and it would cause a great deal of inconvenience to an occupier. The Applicant is of the view that the property has reached an age where the planned work is required as the last time the kitchen and bathroom were renewed was prior to 2015. They are also in a financial position to do it now. They are concerned that this will not be the case if they delay - the estimate they obtained has already increased by £1000. Ms Cook advised the Tribunal that her company manages 7 properties for the Applicant and 6 of them are in Charlotte Street. She does not know if the Applicant has other rental properties. She stated that she had not been aware of the plan to serve notice and re-furbish the property when the Respondent signed the new tenancy agreement – they only took over the management of the property in 2025. The Tribunal was told that there have been recent problems with rent payments and currently the rent due for April to June 2026 is outstanding. There have also been issues with getting access for contractors to carry out essential work and inspections.
6. Mr Shaw told the Tribunal that he is 49 years of age and has no dependants. He works sporadically and although not currently in employment, expects to be back in work soon. There have been no issues with his tenancy until last year. The landlord never discussed the refurbishment work with him before the Notice was served. He believes that it is entirely feasible for the work to be carried out while he is still living there as it is a small flat and it should not take long. However, it would only add about £500 to the Applicant's budget to place him in a local hotel for a few nights. Mr Shaw said that the Applicant has provided no information or evidence about the planned insulation installation. He also said that information on the Companies House website indicates that the Applicant is in a strong position financially and he is aware that they own more than 7 rental properties. In response to further questions Mr Shaw said that he does not believe that either the kitchen or bathroom require to be replaced but that he has no objection to either and he would not be obstructive and would welcome having a new kitchen and bathroom.
7. The Legal Member advised the parties that the application would require to proceed to an evidential hearing. The parties confirmed that they could attend a video conference hearing on 7 October 2026. The issues to be determined at the hearing were noted as being: -

- (a) Does the Applicant intend to re-furbish the property?
 - (b) What refurbishment works are planned?
 - (c) Could the work be carried out while the Respondent remains in occupation of the property?
 - (d) Is the refurbishment work necessary and what is the reason for the planned work?
 - (e) If the ground is established, would it be reasonable to grant the order for eviction?
8. Following the CMD, the Tribunal issued a note and a direction regarding the production of additional information and documents. The parties were also notified that the Hearing would take place by telephone conference call on 7 October 2026 at 10am.
9. On 9 and 10 September 2026, the Applicant's representative lodged further submissions and documents. These included a more detailed estimate from the contractor with better specification of the work. This gives a timescale of eight weeks and indicates that the work will be disruptive and that they recommend that the property is unoccupied while it is being carried out. The Applicant also lodged an estimate from a decorator, a rent statement showing arrears of rent of £2550 and a timeline of their dealings with the Respondent in relation to access to the property. The Respondent did not provide a response to the direction or submit any further documents.
10. The Hearing took place on 7 October 2026. The Respondent participated. The Applicant was not present but was represented by Ms Cook and Ms Cattnach from the letting agency that manages the property.

The Hearing

11. Ms Cook advised the Tribunal that the director of the Applicant was unable to attend the Hearing. She and her colleague were there as representatives from the letting agency. They would be making submissions and relying on the written evidence. They were not attending as witnesses or giving evidence.
12. In response to questions from the Tribunal, Mr Shaw said that his position is unchanged. He said that he had not provided a response to the direction because he thought it was a waste of time. The photographs and video he would have lodged were only relevant to whether the work is necessary, but the Applicant has not claimed that the property is in a poor condition.

The Applicant's submissions

13. Ms Cooke told the Tribunal that the contractor has indicated that they will set aside eight weeks for the work. Additional time will be required for the decorator

and the flooring, possibly another month The Applicant does not know exactly when the work will be carried out as it will depend on contractor availability and when they get vacant possession of the property. They had not considered temporary relocation of the tenant. This is the only property due to be refurbished at present, but the Applicant has previously refurbished other rentals and sold some of them. The property is about 80 to 100 years old and has had no work carried out since the Respondent moved in which was in 2015. The representatives said that they don't know what the Applicant will do if the eviction order is refused. The insulation work is necessary to comply with forthcoming EPC changes. The landlord could be fined if the property does not comply with new standards.

- 14.** In relation to the rent arrears, Ms Cattnach told the Tribunal that the arrears were repaid on 6 October 2026, and the rent is now up to date. There are also no outstanding repairs or inspections due for the property. They eventually got access to do what was required. In response to further questions, Ms Cook said that the Applicant has not considered decanting the Respondent while the work is carried out and it could not be done with the tenant in situ for health and safety reasons. They had hoped that he would move out following service of the Notice to leave or that they will get an eviction order. When asked when the new EPC changes would apply, Ms Cook initially said that they were coming in next year. However, on checking the position with a colleague she then said that the Scottish Government keeps moving the goalposts and they don't have a firm date. Ms Cook also said that the Applicant may sell the property after the refurbishment.

Mr Shaw's evidence and submissions

- 15.** Mr Shaw told the Tribunal that it was news to him that the Applicant was thinking about selling the property, nothing had been said before. When asked about the previous rent arrears, he said that he had stopped paying the rent because he was irritated with the Applicant and the letting agent putting him through the eviction process. He intends to keep his payments up to date. He added that he has been the tenant of the property for 10 years and the rent has been paid every month. In relation to the previous repair issues at the property, Mr Shaw said that if he hadn't dug his heels in about getting the repairs carried out, he would not have been served with an eviction notice. The actions by the Applicant were retaliatory. When asked why he had not considered a repairing standard application if the repairs were an issue, he said that he had to go through the process and give the Applicant time. He emailed them in March. The landlord came for a visit, and the notice was served the next day.
- 16.** Mr Shaw said that he does not believe that the Applicant intends to carry out the work in the estimate. There is also plenty of time to get the EPC work carried out, and additional time allowances will be made for properties which are occupied by tenants. He conceded that he has no evidence to support his position. It is just a feeling that he has. He told the Tribunal that Alison Easton the Director of the Landlord came to the flat and they had a discussion. She got a quote 24 hours later. Then he got an eviction notice. He believes it is a sham

and concocted. If he had let them in to do the electrical inspection, it would not have happened.

17. In response to question about whether he had taken advice on his situation, Mr Shaw said that he had called the CAB and then Shelter. Shelter said that they had a backlog of cases and could not assist in the timescale required. Mr Shaw also said that he is still unemployed and looking for work. He had an interview last week. He said that he has not investigated alternative housing as he does not think the order will be granted. He has no health issues or disabilities and lives alone. He has not approached the Council for assistance. When asked if he would require additional time to seek re-housing if the order is granted, Mr Shaw said that he would need time to appeal as the application has no merit. The refurbishment is not necessary and there is plenty time to address the EPC issue.
18. At the conclusion of the hearing Ms Cook said that they had provided substantial evidence of the planned refurbishment and that the Applicant would not have gone to the time and effort of getting the estimates if they did not plan to carry through. She added that it was strange that the rent arrears had been paid just before the hearing. Ms Cattnach said that the landlord is keen to get the property back to a reasonable standard and has done the same with other properties.
19. Mr Shaw said that the application was retaliatory and that he was being evicted because he had complained about the door entry system. He doesn't feel now that it is safe to complain. Ms Cook said that Mr Shaw did not make things easy in relation to getting repairs carried out. But everything is done now and there are no outstanding repairs. The eviction action is not a retaliation.

Findings in Fact

20. The Applicant is the owner and landlord of the property.
21. The Respondent is the tenant of the property in terms of a private residential tenancy agreement.
22. The Applicant intends to refurbish the property.
23. The planned refurbishment includes new insulation, replacement bathroom and kitchen, new flooring and re-decoration. The planned work would be disruptive, and it would not be practicable for the property to be occupied by the Respondent while it is being carried out.
24. The planned work is not necessary to ensure that the property complies with current regulations and legislation or to address defects or damage within the property.

- 25. The Respondent lives at the property alone.
- 26. The Respondent has lived at the property for 11 years.
- 27. The Respondent incurred arrears of rent during 2026 but has repaid the arrears and the rent account is currently up to date.
- 28. The Respondent withheld access to the property for an essential electrical inspection because other repairs issues were required. The dispute was resolved and the repairs and EICR were carried out.
- 29. The Respondent has not sought or obtained alternative accommodation.
- 30. The Respondent is unemployed and actively seeking work. He has no health issues or disabilities.

Reasons for Decision

- 31. The application was submitted with a Notice to Leave dated 19 August 2025 together with an email to the Respondent which establishes that it was sent to him on that date. The Notice states that an application to the Tribunal is to be made on ground 3, the landlord intends to refurbish the property. The application to the Tribunal was made after expiry of the notice period. The Tribunal is satisfied that the Applicant has complied with Section 52(3), 54 and 62 of the 2016 Act. The Applicant also submitted a Section 11 Notice with evidence that it was sent to the relevant Local Authority. The Tribunal is therefore satisfied that the Applicant has complied with Section 56 of the 2016 Act.
- 32. Section 51(1) of the 2016 Act states, "The First-tier Tribunal is to issue an eviction order against the tenant under a private residential tenancy, if, on the application by the landlord, it finds that one of the eviction grounds named in schedule 3 applies."
- 33. Ground 3 of schedule 3 (as amended) states, "(1) It is an eviction ground that the landlord intends to carry out significantly disruptive works to, or in relation to, the let property.(2) The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if - (a) the landlord intends to refurbish the let property (or any premises of which the let property forms part), (b) the landlord is entitled to do so, (c) it would be impracticable for the tenant to continue to occupy the property given the nature of the refurbishment, and (d) Tribunal is satisfied that it is reasonable to issue an eviction order on account of those facts."
- 34. The Tribunal notes that the Applicant is the owner of the property and is therefore entitled to carry out refurbishment. Ground 3(2)(b) is therefore established.
- 35. In his written representations and at the CMD and Hearing the Respondent stated that he does not believe that the Applicant intends to refurbish the

property. He accepted that he had no evidence to support this belief but mentioned that he does not think the work is necessary and the fact that he had not been told of the planned works until he made complaints about repair issues. He felt that the Notice to leave and eviction application were retaliatory.

36. Both parties lodged written submissions about the issue of access and repairs, and the Respondent submitted copies of emails between himself and the letting agent. It appears that the Respondent had previously made complaints that the intercom at the property was not working. No action was taken to repair it. When he was asked for access to the property in March 2025 for an EICR, he asked about the intercom in his response. There followed a series of emails and an electrician arrived on 23 June 2025 and was given access. As he had arrived late, the Respondent told him to leave before the inspection was complete. Thereafter, the Respondent refused access for the completion of the EICR until the intercom was fixed. It was fixed in October 2025. The Respondent said that the director of the Applicant, Alison Easton came to visit the property by arrangement on 14 July 2025. This was after he sent an email to the letting agent on 7 July with a list of required repairs, including the intercom, which had to be addressed before he would give access to the electrician. Ms Easton apparently inspected the property but did not mention refurbishment. The first quote for refurbishment is dated the 15th of July 2025 and was issued without the contractor seeing the property.
37. The Tribunal did not hear evidence from Ms Easton about her plans for the property, when she made the decision to refurbish and her reasons. Her representatives relied on the estimates provided by the contractor and said that they were told by Ms Easton that she wanted to upgrade the property as it had been a long time since any work had been carried out. However, they also said that the Applicant has indicated that they may intend to sell the property when the work is completed. They have previously refurbished and sold other properties.
38. The Tribunal is not persuaded that the absence of a visit from the contractor or the timing of the quote indicates a lack of genuine intention. By his own admission, the Respondent had been difficult about access in 2025 and may have refused to let the contractor inspect. Ms Easton's visit presumably provided her with the opportunity to assess the current condition of the property so that she could then request a quote. The initial quote only related to the bathroom and kitchen. Prior to the Hearing a more detailed specification of the work was provided with additional items such as new insulation to comply with forthcoming EPC standards and flooring and decoration. It is surprising that a new tenancy agreement was signed at the end of July 2025, after that quote was obtained, and two weeks before the notice to leave was issued. The representatives said that they only took over the property in 2025 and did not know about the proposed refurbishment and notice to leave when the new agreement was signed. Although the quote was certainly obtained before the new agreement was signed, it is not clear when the decision was taken to proceed with the refurbishment. The letting agent was not instructed to serve the notice until 19 August 2025.

39. Even if the Respondent's complaints were a factor in the Applicant's decision to issue a Notice to leave, this does not necessarily mean that the ground is not established. His complaints and the access issues may have affected the timing of the notice and the decision to refurbish, but the documentary evidence demonstrates that the intention is genuine. It is irrelevant that the work is not currently necessary. Ground 3 does not stipulate that the work in question is required to address defects or damage. It is usual for landlords to upgrade their properties from time to time. Usually, they wait for a tenant to leave and refurbish before selling or reletting it. That has not been an option in the present case. The Respondent has been in occupation for 11 years with no intention of moving out in the foreseeable future.
40. Based on the available evidence the Tribunal is satisfied that Ground 3(2)(a) is established.
41. In relation to part (c) of ground 3, the only evidence before the Tribunal are the quotes from the contractor. At the CMD the Respondent had indicated that he wanted to submit a video showing the condition of the property. However, he failed to do this or to provide photographs which he was required to do in terms of a direction issued by the Tribunal. The first quote was only for a kitchen and bathroom. As it is a small flat, it would certainly be very difficult for a tenant to continue to live there during this work. However, the details provided in the second quote, including timescales and the contractor's opinion, establish that it would not be practicable for the property to be occupied while all the specified work is carried out. Ground 3(2) (c) is established.
42. The Tribunal then proceeded to consider whether it would be reasonable to grant the eviction order and noted the following: -
- (a) The planned insulation work will be required at some point in the future. It is not required yet, but the Applicant has decided to do it at the same time as the other planned work. As the eviction process (from service of the Notice to the hearing) has taken 14 months, it is perhaps understandable that the Applicant has decided to do it sooner rather than later. If they had to start the process again, when the date for the new legal requirements is known, the delay could cause problems for the Applicant. On the other hand, if the Applicant intends to sell the property in the near future, it is not clear why this aspect of the work must be carried out at all.
 - (b) There is no evidence that the other planned work is required at the present time. The first quote from the contractor, who had not seen the property, was based on the age of the property and information provided by the Applicant. No evidence was produced about the current condition of the bathroom and kitchen. In the second quote, although much more detail is provided, there is again no reference to the current condition of the property or the contractor's views about its condition.
 - (c) Other than the statements from the representatives that the Applicant has a number of properties and has already refurbished and sold part of their portfolio,

no other information about the Applicant was provided.

- (d) Until 2025, there were no tenancy related issues regarding the Respondent. During 2025, he became difficult about access for the EICR. This issue has now resolved. The Respondent also stopped paying rent for a few months in 2026. However, the arrears have been paid, and rent is up to date.
 - (e) The Respondent lives at the property alone and no other people will be affected if an eviction order is granted.
 - (f) The Respondent has lived at the property for a long time and does not want to move. He is settled there. However, he did not indicate that he had any strong connection to the area in terms of family or local services.
 - (g) The Respondent has no health issues or disabilities which would affect his ability to relocate or limit his options if seeking re-housing. However, he is currently unemployed which may affect how much rent he can afford to pay.
 - (h) The Respondent has chosen not to look at housing options, so the Tribunal did not hear any evidence about the impact on his housing situation if he is evicted. However, it is within the Tribunal's knowledge that there is a housing crisis in Scotland in both the public and private sectors. As the Respondent is currently unemployed, this may limit his options with regard to the affordability of available properties. In any event, the Respondent does not currently have alternative accommodation.
43. The Tribunal notes that it is for a landlord to establish that it would be reasonable for the Tribunal to grant and order for eviction and not for a tenant to establish that it is unreasonable. In the leading English case *Cumming v Danson* 1942 2 All ER 653, Lord Greene MR said "In considering reasonableness...it is, in my opinion, perfectly clear that the duty of the judge is to take account of all relevant circumstances as they exist at the date of the hearing. That he must do in what I venture to call a broad common sense way as a man of the world and come to his conclusions giving such weight as he thinks right to the various factors in the situation. Some factors may have little or no weight, others may be decisive., but it is quite wrong for him to exclude from his consideration matters which he ought to have taken into account." This case is referred to by Adrian Stalker in his book "Evictions in Scotland". At page 51 he states. "The court ought to take into account the effect of granting or refusing to grant the order on both the landlord and the tenant." He then refers to the case of *Cresswell v Hodgeson* 1951 2KB 92, at page 95 "the county court judge must look at the effect of the order on each party to it. I do not see how it is possible to consider whether it is reasonable to make an order unless you consider its effect on landlord and tenant, firstly, if you make it, and secondly, if you do not."
44. The difficulty in the present case is that, based on the available evidence, there are very few relevant factors to be considered. The Respondent told the Tribunal that he is unemployed, does not have alternative accommodation in place and wants to stay in the property. If the order is granted he will have to

find somewhere else to live, within a tight budget, after 11 years in the property. In the Applicant's favour is the fact that they will not be able to do all the planned refurbishment works or sell the property, if the order is refused. There was no evidence that this would have an adverse impact on the Applicant or cause them any significant difficulties. The Tribunal is of the view that the access issues and rent arrears carry little weight. They were both short term issues, after a period of ten years in the property. There was no evidence that there had been similar issues in the past or currently.

45. Weighing up all the relevant factors, the Tribunal is of the view that the Applicant has not established that it would be reasonable to grant the order. On balance, the adverse impact on the Respondent of the order being granted outweighs the known consequences for the Applicant if it is refused.

46. The Tribunal concludes that the Applicant has complied with the requirements of the 2016 Act and that ground 3 has been established. However, the Tribunal is not satisfied that it would be reasonable to grant the order for eviction. The application is therefore refused.

Decision

47. The Tribunal determines that an eviction order should not be granted against the Respondent.

Right of Appeal

In terms of Section 46 of the Tribunal (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.

Josephine Bonnar, Legal Member

9 October 2026