



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 51(1) of the Private Housing
(Tenancies) (Scotland) act 2016**

Chamber Ref: FTS/HPC/EV/24/3035

Re: Property at Easter Hatton, Aberdeen, AB23 8YY (“the Property”)

Parties:

**Adria Group Limited, Harness Circle, Altens Industrial Estate, Aberdeen, AB12
3LY (“the Applicant”)**

**Ms Jackie Charles Flogdell, Mr Bernard Charles Flogdell, Mr Jonathan Charles
Flogdell, Easter Hatton, Aberdeen, AB23 8YY; 121F Jeanfield Road, Perth, PH1
1GW; Easter Hatton, Aberdeen, AB23 8YY (“the Respondents”)**

Tribunal Members:

Graham Harding (Legal Member) and Ahsan Khan (Ordinary Member)

Decision

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that the Applicant was entitled to an order for the eviction
of the Respondents from the property but that enforcement of the order should
be suspended until 5 January 2026.**

Background

1. By application received on 2 July 2024 the Applicant’s representatives, Lindsays LLP, Solicitors, Dundee applied to the Tribunal for an order for the eviction of the Respondents from the property in terms of Ground 4 of schedule 3 of the Private Housing (Tenancies) (Scotland Act 2016 (“the 2016 Act”). The Applicant’s representatives submitted a copy tenancy agreement, Notice to Leave, rent statement, Section 11 notice, building Inspection Report and various emails and text messages in support of the application.
2. Following further correspondence between the Applicant’s representatives and the Tribunal administration, by notice of Acceptance dated 8 December 2024 a

legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion (“CMD”) was assigned.

3. Intimation of the CMD was served on the Respondents by Sheriff Officers on the Respondents on 11 and 13 March 2025.
4. The 1st and 2nd Respondents submitted written representations to the Tribunal dated 29 March 2025.
5. A CMD was held by teleconference on 29 April 2025. The Applicant was represented by Ms Alison Fitzgerald from the Applicant’s representatives. All three Respondents were in attendance. After hearing from the parties the Tribunal concluded that there were disputed matters of fact and that the application should be determined at a hearing. The Tribunal noted the issues to be determined as:-
 - (i) Whether or not the Applicant genuinely intended to refurbish the Property and it would be impracticable for the Respondent to continue to occupy the Property given the nature of the refurbishment;
 - (ii) If so, whether it is reasonable in all the circumstances to grant the order sought.

The Tribunal continued the application to a hearing by video link.

6. By email dated 11 September 2025 the 2nd Respondent submitted further written representations to the Tribunal together with details of a witness.
7. By email dated 22 September 2025 the Applicant’s representatives submitted an inventory of Productions for the Applicant.
8. By emails dated 30 September the 2nd Respondent submitted further written representations and productions to the Tribunal.

The Hearing

9. A Hearing was held by video link on 30 September 2025. Mrs Edith McKimmie attended for the Applicant who was represented by Ms Alison Fitzgerald from the Applicant’s representatives. The three Respondents were all in attendance and in addition the Tribunal heard evidence from Mr Gareth Cordiner M.R.I.C.S. and from the 2nd Respondent’s daughter Ms Carrie Anderson.
10. By way of a preliminary matter the Tribunal established that the Applicant did not object to the 2nd Respondent’s written representations of 30 September being received although late and these were allowed into the process.
11. After explaining the purpose of the proceedings and how the hearing would be conducted the Tribunal heard evidence from the Applicant’s first witness Mr Gareth Cordiner.

The Evidence of Mr Gareth Cordiner

12. Mr Cordiner explained that he was a Chartered Building surveyor having been admitted MRICS on 4 July 2005. Mr Cordiner said he had been instructed to inspect the property by Mrs McKimmie and had attended on 22 July 2024 with a junior colleague. He said that the inspection had lasted about two and a half hours and his findings had been contained in his report numbered 241021 and dated 2 August 2024. In response to a query from Ms Fitzgerald, Mr Cordiner said that he had not found any structural issues of concern but there were a reasonable number of repairs required to the property that would require a reasonable amount of work both externally and internally and to the basement. Mr Cordiner went on to say that there were issues with the bathroom which was in fairly poor condition and that the aluminium windows on the first floor had not been replaced and were in poor condition resulting in water ingress at the sides along with the surrounding timber rotting. Mr Cordiner spoke of the basement at the property suffering from significant water ingress as the tanking had failed and that this required to be addressed. He also spoke of the bath in the bathroom not operating as a spa bath. Mr Cordiner referred to the render on the west gable wall as looking okay but was “boss” in places meaning that the render was coming away and would need to be re-rendered. Mr Cordiner also said that the chimney stacks were in a similar condition. Mr Cordiner explained that he had been unable to inspect one room at the property due to it being full of personal items that had been removed from the home of a relative of the Respondents.
13. In response to a query from Ms Fitzgerald as to the length of time it would take to complete the work required, Mr Cordiner said that would depend on whether the work was phased or done at once. If the latter he thought it would take about 8-10 weeks to complete. Mr Cordiner explained that renewal of the windows would require access both internally and externally. With regards to the work in the basement, Mr Cordiner said that access had to be through the front door and then by a door under the stairs. He explained that during this time access to the property would be compromised and that a significant amount of material would need to be removed including the remains of the sauna, the tanking and the floor. Mr Cordiner thought it be very disruptive to do that if the property was still occupied. Mr Cordiner explained the basement would need to be dried out using dehumidifiers and that there would be a lot of noise and dust and some of the material would be very wet and would require to be double bagged to try to prevent contamination. Mr Cordiner thought the ground floor entrance carpet would need to be lifted and refitted to protect it. Mr Cordiner went on to explain that the bathroom was not on a single level and that alterations were needed to the floor structure as well as replacing the bathroom fittings and the water and electricity would require to be isolated. Mr Cordiner said he could not comment on the electric supply as he had not seen a 5-year test certificate. With regard to the re-rendering of the gable wall, Mr Cordiner said that while some of the render would come away easily some would need removed with a jack hammer which would cause vibrations and a lot of noise. He thought the preparatory work might take 2- 3 weeks and then a further 2-3 weeks to complete the re-

rendering. With regards to the chimney stacks, Mr Cordiner explained that these had been inspected from ground level and by using a drone and it could be seen that some render was falling off and that some work was needed. Mr Cordiner explained that if left unattended ultimately it would get to the stage that the chimney pots could fall and initially there would be water ingress to the property. Mr Cordiner also said that it could be seen that the ridge tiles on the roof needed re-bedding as they were unsecured and there were also localised slipped and cracked slates. Mr Cordiner said that it was assumed that some of the outhouses had asbestos cladding and although not living accommodation as one was cracked it ought to be replaced. Mr Cordiner said that he had not reinspected the property since preparing his report but stood by it at that time.

14. In response to a query from the Tribunal as to whether the property met the repairing standard, Mr Cordiner said it was not wind and watertight and with regards to fixtures and fittings the kitchen and bathroom fixtures and fittings were not in proper working order nor were the upstairs windows.

15. In response to a further query from the Tribunal Mr Cordiner explained that it would not be possible to use the blocked off windows in the basement for access as they were too small and referred the Tribunal to photographs 21 and 22 of his report. Mr Cordiner also said that the smell from the basement when carrying out the removal of material would be very disruptive and if it were his property he would not want to live there and his advice would be to look for alternative accommodation. Mr Cordiner also thought that the repairs to the bathroom would take more than a few days to complete as it would require finding a solution to level the floor and he thought a week or two was more likely. Mr Cordiner confirmed the gable wall did need re-rendered and did not consider the property was pleasantly habitable at present.

The Evidence of Mrs Edith McKimmie

16. Mrs McKimmie said that she was the group financial officer and HR Manager for the Applicant and also dealt with all the Applicant's properties that consisted of 17 commercial and 3 residential properties. Mrs McKimmie explained she had a colleague who goes round the properties and that she instructed tradesmen to attend at the properties when required. Mrs McKimmie said that she had never met the 2nd Respondent but had spoken to her on the telephone many times. Mrs McKimmie confirmed that the Respondents' tenancy had commenced on 11 February 2022 and that she had not had any dealings with the Respondents prior to the commencement of the tenancy as that had been carried out by Stonehouse Lettings. When asked to comment on the document submitted by the 2nd Respondent namely the advertisement for the property prepared by Stonehouse Lettings, Mrs McKimmie said that she agreed that it should not have said that there was a working sauna as the sauna had never worked since the property had been purchased on 27 March 2015. Mrs McKimmie said that shortly after the Respondents had moved into the property the 2nd Respondent had contacted her about the sauna and the jacuzzi and had been told that the Applicant did not wish to repair them. Mrs McKimmie went on to say that after that conversation in March 2022 the 2nd Respondent

had asked for a rent reduction because the sauna and jacuzzi was not working. Mrs McKimmie went on to explain that the heating at the property was provided from the biomass plant at the neighbouring landfill site owned by the Applicant although not part of the tenancy. Mrs McKimmie said that the heating at the property was provided by oil and that tenants were provided with a level at the commencement of a tenancy and had to leave with the tank at the same level at the end of the tenancy. Mrs McKimmie said that the biomass plant operated on woodchip but had stopped working about six months previously or perhaps earlier as no spare parts were available. Mrs McKimmie said that the heating supplied was a courtesy and not part of the tenancy.

17. Mrs McKimmie said that after the initial difficulties things had progressed quite well for a while but in about 2023 or 2024 Presly Pest Control had commented on the build up of black bags in the garage which they thought were attracting rodents and the 2nd Respondent had been told to remove them. Mrs McKimmie said that the Applicant had provided a skip free of charge and this had been filled by the Respondents.
18. In response to a further query from Ms Fitzgerald, Mrs McKimmie said that a lot of the repairs mentioned by the 2nd Respondent in her written submissions had not been reported to the Applicant but that an electrician and plumber had been sent as had the engineer from the landfill site. Mrs McKimmie said that Alan, the engineer from the landfill site had attended at the property on eight occasions in last eight months to reset the boiler as the Respondent had let the tank run dry.
19. Mrs McKimmie confirmed that the rent due by the Respondents as at 8 September 2025 amounted to £19278.99.
20. Mrs McKimmie said the Decision to send a Notice to Leave was not linked to there being any rent arrears but was taken after an inspection carried out by Shaun Simpson in January 2024 that had raised issues with the condition of the property including the rendering and the windows and the only recourse was to have the tenants leave and get contractors in. Mrs McKimmie said that Stonehouse Lettings were instructed to serve the Notice to Leave. Later Mrs McKimmie explained that DJ Alexander had taken over Stonehouse Lettings and the Notice to Leave was served by D J Alexander.
21. In response to a query from the 2nd Respondent Mrs McKimmie said that the inspections previously referred to had been carried out by Presly Pest Control and that Shaun Simpson was a person employed by the Applicant to do maintenance at its properties.
22. In response to a query from the First Respondent, Mrs McKimmie said that when the original request to remove his and the 3rd Respondent's names from the lease had been made in 2022 it had been refused as it was not thought that the 2nd Respondent had the financial resources to meet the rent on her own and when the 1st Respondent asked to be removed as a tenant in 2024 there were rent arrears for which he was liable.

23. In response to a query from the Tribunal Mrs McKimmie said that Mr Simpson was a self-employed handyman and that she was not sure of his qualifications but that he was employed to cut grass and take meter readings.
24. In response to a further query from the Tribunal Mrs McKimmie said she had not visited the property since the Respondents moved in but that she had lived at the property for a week previously. Mrs McKimmie said that during her time at the property she had not been in the basement and that the previous occupant had left it beautifully decorated and she had not been aware of the issues raised by the 2nd Respondent.
25. In response to a further query from the Tribunal Mrs McKimmie accepted she had not checked the Stonehouse Lettings advert and offered her apology for the misleading statements as regards the sauna and luxury bathroom. Mrs McKimmie said that at the time it had been suggested the Respondents could walk away from the lease no offer of compensation had been made but that if this had been made it would have been raised with the Applicant. With regards to the Respondents' request for a reduction in rent Mrs McKimmie submitted that the provision of the biomass heating was sufficient to offset any reduction and that the rent was fair.
26. Mrs McKimmie confirmed that it had been Sean Simpson's report that had triggered the decision to serve a Notice to Leave and that the Applicant then had to decide how best to do the repairs and consider if there was alternative accommodation for the Respondents and how long the repairs would take. Mrs McKimmie said that it was unknown what the main issue was with the basement but that a budget of £90000.00 had been allocated for the repairs. This would include removing the sauna and pipework and investigating the water ingress, replacing the bathroom, carrying out any electrical work, re-rendering the gable wall, replacing windows and repairing the roof and chimney stacks.

The 2nd Respondent's Evidence

27. The 2nd Respondent said that the Applicant had no intention of carrying out repairs until she had fallen out with Mrs McKimmie's colleague Martin Stephen. The 2nd Respondent said Mr Stephen was being awkward and had said the rent was going up by 3% and then about two hours later she said she received a call from the letting agents telling her she was going to be evicted. The 2nd Respondent spoke of being accused of being a bad tenant and that Mr Simpson's report was lies. She spoke of asking Alan the engineer from the landfill site for a skip in order to clear out the black bags and he had said he would ask Mrs McKimmie but she had heard nothing more. The 2nd Respondent said she believed the biomass heating had been turned off on purpose and that in so doing it had cost the Respondents a lot of money.
28. Ms Fitzgerald asked the 2nd Respondent why she thought the Applicant should pay for a skip to remove the rubbish from the property and the 2nd Respondent

said that she had been happy to pay for the skip and had previously asked Alan the Landfill engineer for one and had never said she would not pay.

29. In response to a further query from Ms Fitzgerald, the 2nd Respondent said the Respondents had stopped paying rent because of the deterioration in the condition of the property and the additional cost incurred for oil and also being unable to claim additional benefits after the 1st Respondent had left the property but not had his name removed from the lease. The 2nd Respondent went on to say that she had offered at that time to pay about £600.00 per month. The 2nd Respondent went on to say that she was now in a dire situation as she could not afford to obtain another property in the area and although she had tried had kept being rejected. The 2nd Respondent also said that she did not want to be accommodated in temporary accommodation by Aberdeenshire Council.
30. In response to a further query from Ms Fitzgerald as to why she had not made further enquiries about the property before signing the lease the 2nd Respondent said that the letting agents employed by the Applicant had known nothing about the property and that everything was just guess work and that even Mrs McKimmie did not know the answers.
31. In response to a query from the Tribunal the 2nd Respondent accepted that the property was in a poor condition and that although she had up to a certain point wished to remain in the property, she had now changed her position and was no longer opposing the eviction but would like extra time to find suitable accommodation.

Closing Submissions

32. For the Applicant, Ms Fitzgerald submitted that the application for eviction should be granted. The Respondents were now not opposing the application and Ms Fitzgerald said she could take instructions on extending the period for enforcement of the order.
33. For the Respondents, the 2nd Respondent said that the tenancy had been a nightmare and that the Respondents had not been able to find other accommodation. She submitted that she had tried to find an amicable solution but had been treated abominably and that this had affected her physical health. The 2nd Respondent blamed the actions of the Applicant's former employee, Martin Stephen for the issues that had arisen. but confirmed the Respondents would consent to an order being granted subject to being given additional time to find alternative accommodation.

Findings in Fact

34. The Respondents commenced a Private Residential tenancy of the property on 11 February 2022 at a rent of £1200.00 per month.
35. The Respondents were served with a Notice to Leave in terms of Ground 4 of schedule 3 of the 2016 Act on 14 March 2024.

36. The Applicant intends to carry out extensive refurbishment of the property including repairs to the basement, windows, bathroom, roof, chimney stacks and west gable at an estimated cost of £90000.00.
37. The intended works would be disruptive to any occupants of the property.
38. The property does not currently meet the repairing standard.
39. The Respondents have withheld the payment of rent due to the condition of the property.

Reasons for Decision

40. The hearing was to determine if the Applicant genuinely intended to refurbish the property and if it would be impractical for the Respondents to remain in the property given the nature of the refurbishments and also if in the circumstances it would be reasonable to grant the order sought. The Tribunal was satisfied from the documents submitted and the oral evidence of both Mr Cordiner and the 2nd Respondent that the property was in a poor condition and in need of substantial repair. The Tribunal found Mr Cordiner to be a credible and reliable witness and that he provided an accurate and unbiased report of the work that was required at the property. The Tribunal was also satisfied from his evidence that it would not be appropriate for the Respondents to remain in the property during the period the renovations were being undertaken which could be for some months. In reaching its decision the Tribunal also took account of the fact that although the Respondents had previously been opposing the granting of the order the 2nd Respondent had decided that she no longer wished to oppose the order being granted subject to the Respondents being given additional time to find suitable accommodation. The 1st and 3rd Respondents concurred with the 2nd Respondent in that regard. Ms Fitzgerald indicated that she could take instructions from her client in this regard but of course any decision on suspending the enforcement of an order for eviction is at the discretion of the Tribunal. The issues around the retention of rent and the additional cost for heating due to the failure of the biomass boiler are not relevant to this application and are dealt with by the Tribunal in its decision of the conjoined application reference FTS/HPC/CV/24/3036. It was however clear that the property did not meet the repairing standard and that the property as advertised by the Applicant's letting agents was not in reality in the condition that the Respondents could expect. Nevertheless, whatever the failings of the Applicant or its staff or letting agents in dealing with the issues around the condition of the property during the tenancy the Tribunal was satisfied that the Applicant did intend to refurbish the property and found that Mrs McKimmie's evidence in that regard was credible and reliable. Therefore, after taking account of the proven facts and the circumstances of the parties the Tribunal is satisfied that it is reasonable to grant an order for eviction but in order to give the Respondents time to find suitable alternative accommodation and to seek advice from the homeless unit at Aberdeenshire Council, enforcement of the order will be suspended until 5 January 2026.

Decision

41. After carefully considering all the evidence before it the Tribunal finds the Applicant entitled to an order for the eviction of the Respondents from the property but that enforcement of the order should be suspended until 5 January 2026.

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.

Graham Harding

Legal Member/Chair

30 September 2025

Date