



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

Chamber Ref: FTS/HPC/PR/24/0765

Re: Property at UPPER FLAT HIGH MIDTON, ALLOWAY, AYR, KA7 4EG (“the Property”)

Parties:

Mr JONATHAN CORNELIUS, 19 HOPE GREEN, MAYBOLE, AYRSHIRE, KA19 7BU (“the Applicant”)

TRUSTEES OF ARCHIBALD GEORGE ORR WALKER'S TESTAMENTARY TRUST, NEWARK ESTATE, NEWARK, AYR, KA7 4ED (“the Respondent”)

Tribunal Members:

Virgil Crawford (Legal Member) and Sandra Brydon (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

BACKGROUND

1. The Respondent previously let the Property to the Applicant. The copy lease provided to the Tribunal was undated, but the start date of the tenancy was 14th February 2018. It is a matter of agreement that the tenancy ended in December 2023 following a notice to leave being served upon the Applicant.
2. The notice to leave was issued on the basis that the landlord intended to refurbish the Property. The notice to leave stated the following: -
The landlord intends to refurbish the Property. The refurbishment work will include installing an extractor vent and extractor fan in the bathroom, refurbishing the kitchen extractor fan and vents, installation of new underlay and slate vents in the roof, repairing roof skewstones,

repairing guttering and excavating area near Property entrance to inspect and service underground waterpipes. Further necessary repairs are anticipated once the tenants vacate and more thorough investigations can take place. These further investigations relate to sources of damp and wet rot within the Property and will require stripping internal walls, removal of stud partitions and replastering. The refurbishment works will be significantly destructive and it will be impracticable to continue to occupy the Property.

3. The notice to leave was served on 23rd October 2023. The Applicant vacated the Property on 13th December 2023.
4. The Applicant thereafter lodged an application with the Tribunal seeking an order for wrongful eviction. The application to the Tribunal suggested that the works stated in the notice to leave had not been undertaken. The Property has now been re-let.
5. The Applicant sought an order for payment of 6 times the monthly rent, being £2,970.00 in total.
6. The Respondents agents lodged representation with the Tribunal. Those, in brief:-
 - Confirmed a notice to leave was served on the basis the Landlord intended to refurbish the Property
 - acknowledged the terms of the notice to leave served
 - acknowledged that not all the work specified in the notice to leave has been done
 - provided an explanation for that, maintaining that the notice to leave was properly served and was served in good faith with the expectation the work stated would be undertaken.
7. The representations went on to provide that, following the Property being vacated and being left ventilated for a period of time, it became apparent that some of the anticipated work was no longer required. In addition, a company which had provided a schedule of works and a quotation for the same had subsequently went into liquidation and alternative quotes required to be obtained from other companies. It was ultimately identified that not all the works previously expected were required but significant works were still undertaken at the Property prior to it being offered for let again in June 2024.

THE CASE MANAGEMENT DISCUSSION ON 16th SEPTEMBER 2024

8. The Applicant participated in the Case management Discussion. The Respondent was represented by Miss C White of Galbraith Group.

9. The Applicant intimated to the Tribunal that none of the significant disruptive work was carried out and he had been misled by the landlords. In particular, he advised that the following work was not undertaken: -
- The replacement of the extractor vent and fan in the bathroom.
 - The refurbishment of the kitchen extractor fan and vent.
 - The installation of new underlay and slate vents in the roof
 - The repairing of the roof skewstones
 - Excavating an area to the rear of the Property to inspect and service underground waterpipes.
 - Stripping internal walls, removing stud partitions and replastering
10. Following service of the notice to leave the Applicant vacated the Property in December 2023. At that point he moved into a property which had been purchased by him rather than entering into another lease. He advised the offer to purchase his present property was made in November 2023, following service of the notice to leave.
11. Miss White, representing the Respondent, confirmed that some of the works that had been proposed were not undertaken but substantial work were still done at the Property. Reasons were provided for all of the work previously intimated not being done.
12. Given the issues arising, a hearing to determine various matters was clearly required. The issues to be considered at the hearing were identified as:-
- What work was proposed prior to the notice to leave being served.
 - What work was, in fact, done to the Property after the Applicant had vacated it.
 - What reasons are there for any differences in the work proposed and the work actually done.
 - When did the Applicant submit an offer to purchase his current home.
 - Has there been a financial consequence to the Applicant arising from the termination of the tenancy.
13. The Applicant specifically raised the following points: -
- Rosslee Roofing, who had provided a quotation for work previously, had gone in to liquidation. The firm of McGregor Roofing, which also provided a quotation thereafter, is a dormant company. Was there a genuine intention to undertake the work proposed by these companies, given that neither company would appear to be a position to do the work?
 - The landlord states the Property was inspected once vacant and it became apparent that the need for some of the proposed work did not exist. Who inspected the Property and made this assessment? Was it one of the landlords individually (the landlord is, in fact, a legal trust but there appear to be identified individuals who took responsibility for the Property) or was not it a contractor.

14. The Tribunal advised that these particular points would appear to fall within the issues identified as requiring determination by the Tribunal, that being the work proposed, the work done and the reason for any difference between the two.
15. A Hearing was assigned for 31st January 2025. Prior to that Hearing a request for a postponement of the Hearing was submitted. The request was due to the fact the Respondent's representative, Miss White, Head of Legal and Compliance at Galbraith Group, was on maternity leave and would be returning to work in February 2025. Miss White had represented the Defender at the Case Management Discussion.
16. The postponement request was granted. A further Hearing was assigned for 17 March 2025.
17. The Hearing on 17th March 2025 was adjourned at the request of the Respondent as Miss White, the Respondent's representative, had returned from maternity leave later than expected and had only become aware of the Hearing on 13th March 2025. She was on a phased return to work. She was not at work on 13th March 2025 nor the following day, and had insufficient time to properly prepare for the Hearing. The Applicant opposed the motion to adjourn, but the Tribunal granted an adjournment as being in the interests of justice. A detailed note was issued by the Tribunal at that time explaining its reasons. A further Hearing was assigned for 1st September 2025.

THE HEARING ON 1st SEPTEMBER 2025

18. The Applicant was in attendance and represented himself. The Respondent was represented by Miss C White of Galbraith Group.
19. Prior to the Hearing commencing, the Clerk of the Tribunal spoke to Mr Cornelius and Miss White outlining certain procedural matters. The Tribunal Clerk clarified with both Mr Cornelius and Miss White that they were alone and no other person was within the room with them. Both confirmed that to be the case. This is of relevance in relation to a matter which arose during the Hearing.
20. Mr Cornelius confirmed he was moving the Tribunal to make a finding that there had been an unlawful eviction and to make a payment order in his favour as a result. He confirmed this was on the basis that he had been misled by the information contained within a Notice to Leave which suggested that substantial works were to be undertaken at the Property, that those works were not subsequently undertaken, that there was no intention to undertake those works when the Notice to Leave was served.
21. Miss White opposed the making of such an order. On behalf of the Respondent, she advised that there was an intention to undertake substantial

works, that reports had been received from two separate building contractors in the months prior to the service of the Notice to Leave, the most recent report advising that due to the nature of the works the tenant would require to be decanted. While not all the work which had been initially suggested was undertaken, at the time of service of the Notice to Leave it was the intention of the Respondent to undertake all works recommended. A significant amount of the work intended was still carried out following the termination of the tenancy. There was no wrongful eviction.

The Respondent

22. The Respondent had previously instructed a contractor to report in relation to the Property and work required to it. On 31 January 2023 an emailed report was received from Rosslee, the contractors, advising the following work to be required:-

- Fit No. moisture activated extractor vents 1 in bathroom, 1 kitchen allowing to core drill wall in kitchen and fit roof vent in 1 in bathroom.
- Repoint cement skews to front and rear of left-hand side of Property.
- Cut out sarking and fit 40 no. UB11 slate vents.
- Remove right hand side down pipe from wall, unblock downpipe under ground 1m out from building only, if any further excavating is required we will carry these works out on an agreed materials and labour rate.
- Fit 1 new length 3" cast downpipe.
- Carry out slate repair to all roof slopes front and rear of main house roof only.
- Clean out all gutters on main house roof.

23. The work recommended was mainly external work. The work recommended did not require the eviction of the tenant for it to be undertaken. In the circumstances, no steps were taken by the Respondent to evict the tenant following receipt of said report.

24. Later in 2023 a further report was requested in relation to work required at the Property. The company previously instructed Rosslee, was now in liquidation and, as a result, another company required to be instructed. The agents for the Respondent instructed one of their approved contractors, a Mr Ross McGregor of McGregor Roofing and Property Maintenance Limited.

25. On 22 August 2023 an emailed report was received from McGregor Roofing and Property Maintenance Limited. This report stated:-

- I would strongly suggest that your tenants are decanted from the property while works are being carried out my reasoning for this is as follows:-
- We will be cutting holes in ceilings for new extractor fans and core drilling through external walls which will be extremely noisy and create a lot of dust/debris which may well be harmful to tenants.

- I strongly suspect that we will find rot works behind damp in bedroom below front and rear skewstones as these have been ingressing water for a long period of time. This will involve taking down stud partitions, plaster and lath again very destructive and messy for tenant.
- Due to front rain water pipe being blocked under ground and potential underground pipe collapsed next to front door of property, this area will require excavating to locate underground pipe. This will create a health and safety issue and inconvenience for your tenant due to mess created and large hole in close proximity to main entrance of upper flat.
- I trust you will understand my concerns of carrying out proposed works while the property remains tenanted and act accordingly.

26. Following receipt of that report from McGregor Roofing and Property Maintenance Limited, the Respondent determined that it was appropriate to serve a Notice to Leave to ensure vacant possession to enable the required works to be undertaken.

27. When the Property was empty, that occurring on 13 December 2023 when the Applicant vacated it, the Respondents decided not to proceed with works immediately having regard to the unpredictable weather at that time of year. The Property, instead, was left ventilated and had been cleaned.

28. Following the Property being cleaned and ventilated for a period of time it appeared that there may have been condensation within the Property rather than damp. It was expected, in the circumstances, that some of the internal work previously proposed would not be necessary. The Respondents thereafter instructed the necessary works to be undertaken.

29. The works were undertaken by a different contractor than those who previously provided report. As previously stated, Rosslee had gone into liquidation. It transpired that McGregor Roofing and Property Maintenance Limited had become a dormant company. Galbraith Group required contractors to provide proof of insurance before they will be engaged to undertake work. Proof of insurance was not forthcoming, and it appeared the company had stopped trading. In the circumstances, Coral Contracts from Ayr were instructed. Coral initially undertook the following work:-

- Entrance hallway decoration and repairs.
- Inner hallway plaster repairs and decoration.
- Broken floorboard repair and relay carpet.
- Bedroom 1 fill gaps between partition and ceiling.
- Bedroom 2 fill gaps between partition and ceiling.
- Fireplace room – plaster repairs, change door, fireplace boarded off and made good and decoration of repairs only.
- Kitchen – replace floor with new vinyl.
- Kitchen – fix cracks in ceiling and paint.
- Glass splashback to be supplied and fitted.
- Deep clean

30. It transpired that further work was required. Coral Contractors also undertook the following work:-

- Slate repairs to roof.
- Lead coverings of all skew stones.
- Cleaning of all gutters and down pipes.
- Clearing up of external drains.
- Internal partitions removed from gables of building and replaced with insulated plasterboard.
- Vapour barrier laid installed.
- Painting and decorating of partitions.

It is stated that these works were carried out to prevent any water ingress and remove any areas potentially damaged by water or dampness.

31. The works referred to at paragraph 29 above were referred to in a quote issued by Coral Contractors dated 17 May 2024. The works referred to at paragraph 30 above were referred to in an email from Coral Contractors to Galbraith Group on 31 March 2025. It was explained the email was provided in advance of the Hearing. At that time the Respondent's representative expected a representative from Coral Contractors to be in a position to attend at the Hearing to give evidence. When that was not possible on the date of the Hearing the email previously received confirming the scope of the works completed was forwarded to the Tribunal and to the Applicant.

32. In response to concerns raised by the Applicant to there being no work undertaken in relation to dampness, and no work being done in relation to the skewstones, Miss White drew attention to the work referred to in the email dated 31 March 2025 referring to lead coverings of all skewstones and internal partitions being removed and replaced with insulated plasterboard. The Tribunal noted also that a vapour barrier laid was installed. This work was done to eliminate and prevent dampness within the Property.

33. In the circumstances, Miss White submitted that evidence had been produced to the Tribunal to justify the need for works at the Property to confirm that the work required vacant possession and to evidence the fact that a significant part of the work previously thought to be required was, indeed, carried out.

34. Miss White accepted, on behalf of the Respondent, that following the work being done, the Property was marketed for let during June 2024. Information available suggests that it was subsequently re-let during August 2024. At that time the rent obtained was higher than the rent being paid by the Applicant. Miss White accepted that to be the case, pointing out that the rent obtained when the Property was re-let reflected comparable rent in the area for similar properties and also the fact that there had been substantial work done to this property prior to it being let.

The Applicant

35. The Applicant maintained that he had been misled into ending the tenancy, believing the Respondent had no intention of carrying out works to the

Property, and certainly not works which would have required him to be vacate the Property.

36. The Tribunal enquired of him as to when he had placed an offer to purchase his present home. This is a matter which had been discussed at the Case Management Discussion and was referred to in the Case Management Discussion Note issued thereafter. Mr Cornelius advised that he “bought” his home on 4 December 2023, moving in on 12 December 2023. He advised there was no offer to purchase as it was a new build. When the Tribunal enquired further, on the basis that missives of purchase are almost always entered into in relation to the purchase of a dwelling house, including new built dwellings, the Applicant advised that he believed he had previously emailed information about that to the Tribunal. A check by the Tribunal Clerk confirmed that no such email had been received. The Applicant thereafter forwarded an email to the Tribunal containing information which he believed contained all relevant information, including any offer to purchase his home. When this email was received did not, in fact, contain any information nor any attachments relating to any offer to purchase the property. The Applicant could not advance matters further beyond advising that he viewed the property in November 2023 and matters progressed thereafter.
37. In relation to his assertion that the Respondent had no intention to carry out the works, he made reference to a case of **S Frances .v. Cavendish Hotel** in which he stated “intention” was defined as “genuine but also firm and settled.” When asked for the citation of this case Mr Cornelius advised it was a previous case. When asked if it was a previous case from the Housing and Property Chamber, the Upper Tribunal, a Sheriff Court or the Court of Session he was unable to advise of that. He advised that it was referred to in a further case from the Tribunal, but he was unable to provide further details of that case either. Ultimately, the Tribunal did not pursue the identification of the specific case referred to further as it did not take issue with the suggestion that an intention to carry out the works should be genuine.
38. The Applicant suggested that the fact that two email quotes or reports had been obtained by the Respondent did not confirm an intention to carry out works. He submitted to the Tribunal that, in the absence of an acceptance of a quote, or confirmation of an agreement to undertake works, it could not be said that there was a genuine intention to carry out the works.
39. Mr Cornelius suggested that the fact that the reports in relation to work required were obtained from, firstly, a company which was now in liquidation and, secondly, a company which was now dormant, confirmed that there was no genuine intention to carry out the work. He did not accept the explanation from the Respondents representative that, at the time, the reports were received from each company, each was an active company which was on an approved list of contractors of Galbraith Group.
40. When asking questions of Miss White, the Applicant asked how, if skewstones were not repaired, there was a reduction in dampness within the Property. It

was explained by Miss White that the skewstones were, indeed, repaired. (It was in response to this question that the email dated 31 March 2025 from Coral Contractors was forwarded to the Tribunal). He enquired about whether there was internal stripping of walls and removing a stud partitions. It was explained by Miss White that internal walls were removed and replaced with insulated plasterboard and that was a result of this work being identified as necessary when other work was being undertaken.

41. The Applicant drew attention to the fact that, in written Submissions to the Tribunal, the Respondents representative stated that, following the Property being vacated and it being ventilated, the landlord noticed an improvement within the Property and believed it was affected by condensation rather than dampness. He suggested to the Tribunal that the fact this was identified by the landlord as opposed to contractors, was a relevant consideration. He submitted that the landlord did not appear to have any expertise or qualifications in identifying issues of dampness within the Property. (It was pointed out by Miss White that the landlord considered that there had been an improvement but, ultimately, was guided by Coral Contractors who undertook the work.)
42. The Applicant suggested that the improvement in the appearance of dampness arose as a result of the Property being cleaned following it being vacated. He suggested that cleaning the Property removed signs of damp and mould. Miss White disputed that pointing out that it is difficult for normal cleaning to remove signs of dampness and mould.
43. The Applicant advised the Tribunal that he had knowledge and experience of damp and mould. He explained he had “lived with it for years”. He knows the effects of it. He also works “within the build environment” explaining that he is a fire engineer in non-commercial buildings.
44. When enquiry was made by the Tribunal, he confirmed he had complained to the Local Authority about the existence of damp and mould within the Property. The Property was inspected by the Local Authority during a site visit. He, however, did not take this matter any further with the Respondent as he did not wish to “rock the boat” with the landlord. He confirmed, however, that the Local Authority advised that there was a problem with damp and mould within the Property.
45. When the Tribunal enquired of the Applicant why, having regard to:-
 - Rosslee Contractors suggested in January 2023 that work was required at the Property.
 - McGregor Roofing and Property Maintenance Limited suggested in August 2023 that work was required at the Property.
 - The Applicant himself had complained about damp and mould within the Property.
 - The Local Authority had inspected the Property and confirmed the existence of damp and mould.

- The Respondent issued a Notice to Leave stating that significant works were to be undertaken at the Property, including work to address damp and rot.
- Works were thereafter undertaken at the Property.

the basis upon which the Applicant was suggesting that there was no intention to carry out significant works. The Applicant replied "I don't know". He maintained, however, that it was his belief that there was no genuine intention to carry out the works referred to within the Notice to Leave.

46. In relation to the financial consequences to him of the Notice to Leave being served, he advised that when he vacated the Property he purchased a new built home. The monthly mortgage he is paying is approximately twice as much as the rent he was paying previously. He did not rent another property as there were no suitable rental properties available. The only ones available for rent were two bedroomed properties. He also decided that he did not wish to rent anymore. Given he was being evicted from this tenancy, he preferred not to enter into a new tenancy agreement where the same could happen again. As a result, he purchased a three bedroom home to reside in together with his wife and three children.
47. The Applicant referred to an email he forwarded to the Tribunal advising that the tenant of another property within the same building had been evicted by the same landlord, with that property being offered for rent at the same time as the property he had vacated, after work had been done to it. The Tribunal had enquired as to the relevance of this email submission on the basis that it said nothing more than the tenant had been evicted at the same time as him and the property was offered for let again at the same time. The other tenant was not listed as a witness and the Tribunal, therefore, would not be able to hear any evidence in relation to the same. At that point a female in the background stated "I'm here". The Tribunal enquired as to who that person was. The Applicant handed his telephone to this person. She advised she was Alison Marshall, aged 60, now residing in Maybole in Ayrshire. She is the Applicant's mother-in-law and resided in the flat below him before being evicted. She was in a position to give evidence to the Tribunal.
48. The Tribunal requested that the telephone be handed back to the Applicant. The Tribunal enquired of the Applicant as to why, if Miss Marshall was to be led as a witness, no notice of that was given to the Tribunal. There was no explanation for that. The Tribunal expressed concern about a possible witness having been present throughout the Hearing. The witness clearly heard what was being said and responded in the background stating that she had not been there since the commencement of the Hearing. The Tribunal enquired of the Applicant what evidence he would intend to lead from this witness if she was permitted to give evidence. Again, Miss Marshall began responding in the background, having heard the questions put. There was no doubt, therefore, that Miss Marshall was clearly able to hear what had been discussed by the Tribunal prior to her advising of her presence. The Applicant advised that he would intend to lead evidence from Miss Marshall about intimidation of her by the landlord. Miss White objected to evidence of this nature being led. No

notice had been given of any intention to call the witness. No notice had been given of any intention to lead evidence about alleged intimidation by the landlord. That did not form any part of the Application to the Tribunal nor the submissions up to this point. Miss White pointed out also that, at the commencement of the Hearing, the Tribunal Clerk asked Parties to confirm that they were alone and no other person was present. Mr Cornelius, the Applicant, advised that was the position. It was somewhat concerning that Miss Marshall was clearly present throughout. The Applicant denied that Miss Marshall had been present throughout the Hearing but did not indicate at which stage in the Hearing she had entered the room. If she had entered the room during the Hearing, the Applicant clearly did not advise the Tribunal of that when it happened.

49. The Tribunal adjourned briefly to consider whether Miss Marshall should be allowed to give evidence. Having considered the matter, the Tribunal, when it reconvened, advised it would not hear evidence from Miss Marshall. It did not consider it to be in the interests of justice to do so. The Tribunal considered the following:-

- The evidence intended to be offered by Miss Marshall was in relation to alleged intimidation of her by the Respondent. Such evidence was of no relevance to the matter being determined by the Tribunal, that being whether there had been an unlawful conviction of the Applicant.
- There had been no notice given to either the Tribunal nor the Respondent of evidence of alleged intimidation being led in support of the Applicant. In the circumstances, the Respondent did not have an opportunity to prepare for nor respond to any such evidence which may be led. In the absence of the matter of intimidation forming part of the Application, again, there was no relevance to this evidence in any event.
- The potential witness was clearly present during at least part, if not all, of the Hearing which had taken place. She was clearly able to hear the proceedings as was evident from her responses to questions which were posed directly to the Applicant. Had the Tribunal been aware of the intention to call a witness, the Tribunal Chairperson would have ensured, from the outset, that the witness was not present during the Hearing until she had been called.
- There was no suggestion that any evidence would be led from the potential witness which was directly related to the matters to be determined by the Tribunal.

REASONS FOR DECISION

50. The Tribunal had no difficulty in refusing the Application.

51. Having regard to the basis of the Application, that being a claim for compensation for wrongful eviction on the basis the Applicant had been misled to terminating the tenancy by the Notice to Leave, it being suggested that there was no intention on the part of the landlord to carry out the works

referred to, it was, of course, for the Applicant to satisfy the Tribunal in relation to that matter. The Applicant singularly failed to do so.

52. The Submissions of the Applicant to the Tribunal were inconsistent and self contradictory. The Applicant had made various complaints to the Respondents about the need for work to be carried out at the Property. Despite he himself suggesting that work was required, he was asking the Tribunal to accept there was no intention to carry out work.
53. The Applicant did not dispute that an emailed report had been received from Rosslee. The work identified as necessary by Rosslee, during January 2023, was not such as required the Applicant to be evicted. No steps were taken to evict the Applicant at that stage. Had it been the intention of the Respondent to evict the Applicant for any nefarious purpose, a Notice to Leave could have been served at that time. That was not done. The Applicant did not consider that to be relevant, instead considering it to be of greater relevance that Rosslee was subsequently liquidated. The liquidation of Rosslee was, in effect, irrelevant to subsequent events, apart from it being necessary for the Respondents to identify other contractors at a later stage as Rosslee was no longer in a position to provide services to the Respondent.
54. In relation to the report of necessary works received from McGregor Roofing and Property Maintenance Limited, the Applicant maintained his belief that there was no genuine intention for the works referred to be carried out. He maintained that position despite he, himself, having made reports to the Respondent about damp and mould within the property, he having reported the same to the Local Authority, he having facilitated an inspection by the Local Authority and the Local Authority advising him that there was a problem with damp and mould within the Property. The suggestion, therefore, that he did not accept that there was a genuine intention to carry this work out was inconsistent with his own concerns, the concerns of the Local Authority, the concerns of McGregor's and the fact that, following the report from McGregor Roofing and Property Maintenance Limited, which highlighted the need for this work and the need for the tenant to be evicted, there was still no genuine intention of the landlord to carry out the work. At best, the submission of The Applicant in that regard was disingenuous. The Applicant's submission in that regard was not credible.
55. The suggestion of the Applicant that, for there to be a genuine intention to carry out work, there should have been, by the Respondent, some form of acceptance or some form of agreement entered into between the Respondent and McGregor Roofing and Property Maintenance Limited is not one with which the Tribunal found favour. While the Applicant made reference to the terms of Paragraph 3(3) of Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016, in which it is stated
- (3) Evidence tending to show that the landlord has the intention mentioned in sub-paragraph (2)(a) includes (for example)—*
- (a) any planning permission which the intended refurbishment would require,*

(b) a contract between the landlord and an architect or a builder which concerns the intended refurbishment.

the Tribunal expressed a view that the paragraph did not provide an exhaustive list of circumstances in which an intention to carry out works could be inferred. The Tribunal considered that the obtaining of reports from companies which were, at the relevant time, approved contractors of the Respondent's agents, the fact the Respondents had also received complaints from the Applicant in relation to the need for work, coupled with the service of a Notice to Leave following receipt of the report from McGregor Roofing and Property Maintenance Limited, indicating the need to evict the tenant before work could be undertaken, with a Notice to Leave subsequently being served, clearly evidenced an intention on the part of the Respondent to carry out the work.

56. The Applicant maintained his position. He did not accept that the fact that work was, indeed, carried out to the Property indicated an intention on the part of the landlord to carry out the work when a Notice to Leave was served. He maintained that, for that intention to be established, as stated, some form of contract or other agreement should have been entered into before the Notice to Leave was served. The Tribunal had no difficulty in dismissing such a suggestion by the Applicant as being unrealistic.
57. The complaints of the need for work by the Applicant, coupled with his complaint to the Local Authority about the existence of damp and mould, taken together with the apparent findings of the Local Authority for the presence of damp and mould, which were consistent with the report received from McGregor Roofing and Property Maintenance Limited, were all factors which were inconsistent with the suggestion by the Applicant that there was no intention to carry out the work.
58. The Tribunal was of the view that the Application to it by the Applicant was largely opportunistic in nature. This was confirmed by the Applicant stating to the Tribunal, when specifically asked the basis of his opinion that there was no intention to carry out works, despite the weight of evidence suggesting otherwise, "I don't know".
59. Having regard to the information provided to the Tribunal both in written submissions and in oral submissions at the Hearing, the Applicant failed to provide any information or evidence which would enable the Tribunal to conclude that there was not a genuine intention to carry out the works referred to in the Notice to Leave. The evidence presented to the Tribunal clearly suggested that there was an intention to carry out the works. The Tribunal is fortified in that position by the fact that works were, indeed, subsequently carried out after the Property was vacant.
60. There was no credible nor reliable information nor evidence presented to the Tribunal by the Applicant to enable the Tribunal to grant the Application before it. In the circumstances, the Application falls to be refused.

DECISION

The Tribunal refused the application

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.

Virgil Crawford

1st September 2025

Legal Member/Chair

Date