



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 (“the 2016 Act”)

Chamber Ref: FTS/HPC/EV/26/0668

Re: Property at ROOM 2, 44 NICOL STREET, KIRKCALDY, KY1 1NY (“the Property”)

Parties:

Ms Maria Walker, Fiona Walker or Mares, 46 Nicol Street, Kirkcaldy, Fife, KY1 1NY (“the Applicants”)

Ms Deborah Alexander, ROOM 2, 44 NICOL STREET, KIRKCALDY, KY1 1NY (“the Respondent”)

Tribunal Members:

Alastair Houston (Legal Member) and Mary Lyden (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an eviction order be made in terms of paragraph 11 of schedule 3 of the 2016 Act

1. Background

- 1.1 This is an application under rule 109 of the Chamber rules whereby the Applicants sought an eviction order on the basis of paragraphs 11, 14 and 15 of schedule 3 of the 2016 Act, namely, that the Respondent had breached a term of the tenancy agreement, had engaged in antisocial behaviour and had associated with someone who had engaged in antisocial behaviour. The application was accompanied by copies of the tenancy agreement, the notice to leave given to the Respondent, a sheriff court writ and extract decree and a statement of the Second Named Applicant.
- 1.2 No written representations were received from the Respondent in advance of the Case Management Discussion. The Applicants lodged further

submissions on 7 September 2026 comprising of an inventory of documents including copies of letters sent to the Respondent, the local authority and affidavits.

2. The Case Management Discussion

2.1 The Case Management Discussion took place on 14 September 2026 by teleconference. The Applicants were represented by Ms Wilson, solicitor. The Respondent attended personally.

2.2 The Applicant's representative confirmed that the application was insisted upon. The allegations against the Respondent in terms of antisocial behaviour were set out in the affidavits lodged. The allegations against the Respondent's son, Christopher Alexander, being the person she had associated with, were set out in the sheriff court writ relating to an application for a non-harassment order which was granted by the court. The breach of the tenancy agreement relied upon was the Respondent permitting her son to reside with her at the Property without the permission of the Applicants. The Applicants had between 15 and 20 CCTV video clips they wished to lodge, taken mostly within the last year, of the anti-social behaviour complained of. It was accepted that Mr Alexander was no longer residing at the Property, which was one room within a ten bedroom HMO property.

2.3 The Respondent advised that she wished to move from the Property. Broadly, she denied the allegations made against her and her son. She accepted that she had allowed her son to reside with her without the Applicant's permission between March and August 2025. She did not oppose the granting of an eviction order. She had applied for rehousing with the local authority and was on the housing list. Due to disabilities, she required a ground floor home with a wetroom. She could not afford alternative private accommodation. She understood that she would be offered private accommodation by the local authority when something suitable became available and would be accommodated temporarily in the meantime if an eviction order were granted.

3. Reasons For Decision

3.1 The application for an eviction order was unopposed however, the Tribunal could only make an eviction order if satisfied that one of the grounds relied upon by the Applicants was made out. Paragraph 11 of schedule 3 of the 2016 Act is in the following terms:-

11 (1) It is an eviction ground that the tenant has failed to comply with an obligation under the tenancy.

(2) The First-tier Tribunal may find that the ground named by subparagraph (1) applies if—

(a) the tenant has failed to comply with a term of the tenancy, and

(b) the Tribunal considers it to be reasonable to issue an eviction order on account of that fact.

(3)The reference in sub-paragraph (2) to a term of the tenancy does not include the term under which the tenant is required to pay rent.

In the present case, clause 12 of the tenancy agreement stated:-

Unless the Tenant has received prior written permission from the Landlord, the Tenant must not:

- *sublet the Let Property (or any part of it),*
- *take in a lodger,*
- *assign the Tenant's interest in the Let Property (or any part of it), or*
- *otherwise part with, or give up to another person, possession of the Let Property (or any part of it).*

The Respondent accepted that she allowed her son to reside at the Property between March and April 2025 without permission. The Tribunal was satisfied that this fell within the meaning of “take in a lodger” and that she had breached clause 12 of the tenancy agreement.

3.2 The Tribunal thereafter required to consider whether it was reasonable to grant the eviction order. The Tribunal considered that it was reasonable given that the Respondent wished to move from the Property, had an outstanding application for rehousing and wished the eviction order granted to expedite this and expected the local authority to provide permanent accommodation with temporary accommodation also to be available if necessary.

3.3 Given the dispute over the alleged antisocial behaviour, the Tribunal was unable to make any finding as to whether or not grounds 14 and 15. A hearing would have been required but, given the acceptance by the Respondent that she allowed her son to reside with her and the lack of opposition to an eviction order, the Tribunal considered this to be unnecessary.

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.

A Houston

Legal Member/Chair

16 September 2026

Date

