

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

Chamber Ref: FTS/HPC/EV/24/5689

**Re: Property at Windyedge Farm Cottage, Lassodie, Dunfermline, KY12 0SW
("the Property")**

Parties:

**Mr Gavin Adam, Thornton Cottage, Windyedge Farm, Dunfermline, KY12 0SW
("the Applicant")**

**Mrs Alexena Morgan, Windyedge Farm Cottage, Lassodie, Dunfermline, KY12
0SW and Mr Bryan Morgan, 119 Main Street, Kingseat, KY12 0TJ ("the
Respondents")**

Tribunal Members:

George Clark (Legal Member) and Eileen Shand (Ordinary Member)

Decision

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the
Tribunal") determined that it could decide the application without a Hearing and
that it was reasonable to issue an Eviction Order against the Respondent**

Background

1. By application dated 11 December 2024, the Applicant sought an Eviction Order against the Respondent under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 ("the 2016 Act"). The Ground relied on was Ground 14 of Schedule 3 to the 2016 Act, namely that the tenant has engaged in relevant anti-social behaviour.
2. The application was accompanied by copies of a Private Residential Tenancy Agreement between the Parties, which commenced on 6 October 2023 at a rent of £975 per month, and a Notice to Leave dated 18 October 2024 advising the Respondents that an application to the Tribunal under Ground 14 would not be made before 28 November 2024.

3. The Applicant stated that he and his family live in the house adjacent to the Property. On 3 January 2024, the Applicant and his family heard the Respondents arguing. The first-named Respondent was not letting the second-named Respondent enter the house and the Applicant witnessed her threatening to call the police. On 22 January 2024, the Respondents were engaged in an argument which took place outside the Applicant's kitchen window. On 11 March 2024 from 4pm onwards, the Respondents were arguing outside the Property. The Landlord and his son had been outside at the time attending to sheep and collecting firewood. They heard the argument and hid in a shed. They then witnessed the first-named Respondent begging for her phone back and the second-named Respondent call her pathetic and "bitch". This was very distressing to hear. The Applicant heard them arguing again later that night.
4. In May 2024, the Applicant's children heard arguing and hid in a shed to avoid it. On 20 July 2024, the Respondents were both arguing and swearing outside the Property. The Applicant went out and advised them that he and his family could hear the argument and did not want their children to hear them. He issued a verbal warning to the Respondents. On 6 and 7 August 2024, the Applicant's son was woken on both mornings by the Respondents arguing outside. The argument was close to his bedroom window and appeared to be over house keys. The Applicant issued a second verbal warning. On 27 August 2024, the Applicant witnessed more arguing outside. The second-named Respondent had blocked the farm road with his van to prevent the first-named Respondent from getting in. A neighbour phoned the Applicant at 9.15 pm to say there was an argument between the Respondents taking place at the end of the farm road. On 7 October 2024, they were again witnessed arguing at the end of the farm road.
5. On 12 March 2024 at 18.40, the Applicant witnessed a very distressing incident when his son was at home. They could hear arguing outside. The Applicant witnessed the second-named Respondent trying to stop the first-named Respondent from entering the Property, but he forced his way inside. The first-named Respondent appeared to be very upset and sat on the doorstep in tears. On this occasion, the Applicant's son heard the first-named Respondent say to the second-named Respondent "don't hit me again."
6. Each of these incidents had caused alarm and distress to the Applicant and his wife and children, as well as annoyance or nuisance to the Applicant, his family and/or the surrounding neighbours.
7. The Applicant also provided the Tribunal with a copy of an email he had sent to Fiona Reid of Abbey Forth Property Management Ltd on 14 January 2025, advising her that he and his wife had been interviewed by the police on 3 January 2025 regarding the behaviour of the Respondents and the welfare of their children. The Applicant pointed out that the rent was now six months in arrears.

8. On 2 April 2025, the Tribunal advised the Parties of the date and time of a Case Management Discussion, and the Respondents were invited to make written representations by 23 April 2025. The first-named Respondent did not make any written representations to the Tribunal but on 16 April 2025, the second-named Respondent advised that he had moved out of the Property on 17 February 2025 and had not returned. The Respondents were going through a separation. He had asked the Applicant to remove him from the lease, but the Applicant had refused to do so.
9. On 5 May 2025, Fiona Reid of Abbey Forth Property Management Ltd, responded on behalf of the Applicant, confirming that the first-named Respondent still remains in the Property, but is not paying rent. The second-named Respondent had been seen at the Property on several occasions, coming and going on the weekend of 11-13 April 2025 and on 17 and 25 April 2025. His work ladders and some scaffolding were stored at the Property. On 30 January 2025, the Respondents had been arguing and shouting loudly outside the Property again and had been given another verbal warning about their behaviour.
10. On 15 May 2025, the second-named Respondent sent a lengthy email to the Tribunal. He stated that he had moved out on 17 February 2025 and had not returned to stay or moved back in, but he has a son living at the Property and he was entitled to go and see him. He commented that the first-named Respondent has no support network, is not in contact with her family and is pretty isolated. If the Applicant would release him from the tenancy, she would, as sole tenant, be able to access Universal Credit and could afford the rent. The Applicant has refused their request. He considered that the Applicant had exaggerated the debates or fallouts that he accepted had spilled out to the car park area at the side of the Property and that the “verbal warnings” had been over-aggressive.

Case Management Discussion

11. A Case Management Discussion was held by means of a telephone conference call on the morning of 29 May 2025. The Applicant was presented and was supported by his wife, Mrs Elaine Adam, and by Mr Stuart Dalziell of Abbey Forth Property Management Ltd, Dunfermline. The Respondents were not present or represented.
12. The Applicant told the Tribunal that he had received a message last evening from the second-named Respondent that they would complete moving out today and would hand back the keys of the Property this evening. The first-named Respondent would, the second-named Respondent had said, be living with her sister until they were rehoused by the local authority. The Applicant confirmed that nobody had stayed overnight at the Property for a few days. He had, however, no way of knowing whether the Respondents would finally move out and hand back the keys, so wished the application for an Eviction Order to proceed. He confirmed that his children, all living at home, are 19, 16 and 13. The Respondents’ behaviour had had a great

impact on them, and he felt he had failed as a father by letting the Respondents move in next to them, the two properties being about 15 feet apart. They had witnessed and heard things that they should not have had to, including a husband verbally abusing his wife, and it had been very distressing for the whole family. Growing up on a farm should provide his children with a protective environment and a quiet and peaceful upbringing, but they had been frightened to go outside to play for fear of witnessing yet more anti-social behaviour on the part of the Respondents. He added that, whilst he was not seeking an Eviction Order based on rent arrears, they now amounted to 8 months, and he asked the Tribunal to take this into account in deciding whether it would be reasonable to issue an Eviction Order.

Reasons for Decision

13. Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it sufficient information and documentation to decide the application without a Hearing.
14. Section 51 of the 2016 Act states that the Tribunal is to issue an Eviction Order against the tenant under a Private Residential Tenancy if, on an application by the landlord, it finds that one of the eviction grounds named in Schedule 3 to the 2016 Act applies.
15. Ground 14 of Schedule 3 to the 2016 Act provides that it is an eviction ground that the tenant has engaged in relevant anti-social behaviour and that the Tribunal may find that the Ground applies if the tenant has behaved in an anti-social manner in relation to another person, the anti-social behaviour is relevant anti-social behaviour, the Tribunal is satisfied that it is reasonable to issue an Eviction Order on account of that fact and either the application for an Eviction Order that is before the Tribunal was made within 12 months of the anti-social behaviour occurring, or the Tribunal is satisfied that the landlord has a reasonable excuse for not making the application within that period. A person is to be regarded as behaving in an anti-social manner in relation to another person by doing something which causes or is likely to cause the other person alarm, distress, nuisance or annoyance.
16. The Tribunal was satisfied from the evidence provided by the Applicant that the Respondents have behaved in an anti-social behaviour in relation to the Applicant and his family, their repeated arguments within earshot of the Applicant and his family having caused them alarm, distress, nuisance and annoyance. The remaining issue for the Tribunal to determine was, therefore, whether it would be reasonable to issue an Eviction Order on account of that fact.
17. The Tribunal noted that the Applicant had been very clear about the impact on his family and, in particular, his children, of the anti-social behaviour, to the extent that he felt guilty that, by allowing the Respondents to live next

door, he had caused his children to be exposed to behaviours that they would not normally have to witness. The first-named Respondent did not make any written representations and neither of them was present or represented at the Case Management Discussion to take the opportunity to put forward any facts or circumstances they wished the Tribunal to consider in determining whether it would be reasonable to issue an Eviction Order. The second-named Respondent, in his written submissions, did not deny the anti-social behaviour. The view of the Tribunal was that the Applicant was entitled to hold the second-named Respondent to his obligations under the tenancy agreement even though he appeared to have moved out. There was no way of knowing whether he might move back in and his assertion that, as a sole tenant, the first-named Respondent would be able to afford the rent, was speculation. In any event, rent arrears were not the reason for the Applicant seeking an Eviction Order.

18. Having considered carefully all the evidence, written and oral, before it, the Tribunal decided that the impact on the Applicant and his family of having what should be a peaceable existence on a remote farm so detrimentally affected by the anti-social behaviour of the Respondents, it would be reasonable to issue an Eviction Order.

19. The Tribunal's Decision was unanimous.

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.

G. Clark

Legal Member/Chair

29 May 2025
Date