

Housing and Property Chamber
First-tier Tribunal for Scotland



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/25/2733

Re: Property at 26 Factory Road, Kirkcaldy, KY1 2NJ (“the Property”)

Parties:

VSDN Properties Limited, 2 Marshall Place, Perth, PH2 8AH (“the Applicant”)

Claire Violet McAllister, 26 Factory Road, Kirkcaldy, KY1 2NJ (“the Respondent”)

Tribunal Members:

Joel Conn (Legal Member) and Elizabeth Dickson (Ordinary Member)

Decision (in absence of the Respondent)

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

Background

1. This is an application by the Applicant for an eviction order in regard to a Private Residential Tenancy (“PRT”) in terms of rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended (“the Rules”). The PRT in question was by the Applicant to the Respondent commencing on 16 September 2020.
2. The application was originally dated 24 June 2025 and lodged with the Tribunal on that date, though a subsequent amended application of 1 August 2025 was lodged. The amended application was based upon a Notice to Leave dated 7 January 2025 in terms of section 50 of the Private Housing (Tenancies) (Scotland) Act 2016, intimated upon the Respondent by email (in terms of the Tenancy Agreement) on that date. The Notice relied upon:
 - a. Ground 12 (rent arrears) of Schedule 3 Part 1 of the 2016 Act, referring to “rent... now outstanding for 4 months” and stating that the missing rent was for November 2023, December 2023, December 2024 and January 2025;

- b. Ground 11 (breach of tenancy condition) referring to the Respondent having “failed to upkeep the premise and the property in a good order, as required by the PRT”; and
 - c. Ground 14 (anti-social behaviour) referring to the Respondent “having issues with the neighbour and they have had to contact Police and the Council”, and providing five police complaint references, appearing to date from September to December 2024 (based on the reference numbers).
(We note that Ground 11 was not insisted upon in the amended application.)
- 3. The Tenancy Agreement lodged with the application showed that rent was £600 per month and due on the 1st of each month. A statement of arrears lodged with the application showed:
 - a. That monthly rent had been increased to £640/month in 2022 and then to £713.05/month in 2024;
 - b. That rent payments were irregular from November 2023 onwards, with missed payments and part-payments (some of the part payments being said to have been received from the “Council”). As of the date of the Notice to Leave, arrears appeared to be £3,799.15 (so in excess of a mere four months sought in the Notice);
 - c. No payment had been received since 1 December 2024; and
 - d. Rent arrears as of 1 August 2025, for the period to 31 August 2025, were said to be £8,790.50.
- 4. In respect of the alleged anti-social behaviour, the main evidence was a witness statement from a neighbour to the Property which will be referred to below.
- 5. Evidence of a section 11 notice in terms of the *Homelessness Etc. (Scotland) Act 2003* served upon Fife Council on 23 June 2025 was provided with the application. There was no evidence in the application papers of compliance with provision of the pre-action protocol information in standard form, other than the information within the Notice to Leave.
- 6. Prior to the case management discussion (“CMD”), and further to a Notice of Direction issued to the Applicant, the Applicant provided two text messages from the same neighbour referring to an additional noise complaint from around 13 March 2025 and to lodging another complaint with the local authority on 23 March 2025 (with no details of the behaviour from that occasion). Also provided were letters from 25 June and 24 September 2024 where the local authority referred to complaints from neighbours, and an email from 2 December 2025 where the local authority confirmed receipt of complaints from neighbours about: noise, a barking dog, and the Respondent verbally abusing people.
- 7. In regard to compliance with the pre-action protocol (which was also raised in the Notice of Direction), the Applicant stated: “I engaged in extensive telephone communications with the tenant in compliance with the pre-action protocol under the relevant Regulations. Owing to a change of mobile device, historic call records are no longer available. However, I can confirm these conversations took place and included advice and signposting regarding debt and housing support services, in line with pre-action requirements”.

The Hearing

8. The matter called for a CMD of the First-tier Tribunal for Scotland Housing and Property Chamber, conducted by remote telephone conference call, on 16 December 2026 at 14:00.
9. In advance of the CMD, we were informed by the Applicant's director, Niranjan Chikka Siddegowda, that he would be dialling in from abroad. Around 14:00, the Tribunal received an email from the Applicant's director stating that he was unable to dial into the toll-free number provided for the CMD call, and that he was noting network problems with his telephone. On our direction, the Tribunal's clerk attempted to contact the Applicant's director. The clerk was able to connect the director into the conference call facility but there were clear issues with the call. The Applicant confirmed verbally to the clerk that he was satisfied with the application (and a conjoined application on arrears under reference CV/25/2741) to be heard in his absence if necessary, and the call dropped shortly after. The Applicant never dialled back in.
10. There was no appearance from the Respondent. We were informed by the clerk that no contact had been received from the Respondent (or on her behalf) with the Tribunal. The application papers included a text message from the Respondent to the Applicant's director that appeared to be the Respondent inviting an eviction application to be raised against her. The application contained other evidence of the Respondent disengaging with the tenancy issues (such as in the witness statement). We further noted that the Respondent had received clear intimation by the Sheriff Officer instructed by the Tribunal on 30 October 2025 of the CMD arrangements. Having not commenced the CMD until around 14:15, we were satisfied to consider the application in the Respondent's absence. In any case, no attempt was made by the Respondent (nor anyone on her behalf) to dial in late to the CMD.
11. We reviewed the application papers and those additional papers provided in response to the Notice of Direction. We noted that no communication had been received from the Respondent, nor on her behalf, on any subject.
12. In regard to rent arrears, we noted that the arrears as of 1 August 2025 were substantial, being over 12 months of arrears as of that date. There was no suggestion in the papers of any payments have been received since the statement of 1 August 2025, nor of issues with payment being related to a problem with payment of benefits.
13. In regard to anti-social behaviour, we noted the evidence and submissions being:
 - a. The application submitted that: "The tenant has engaged in antisocial behaviour that has caused significant alarm and distress to neighbouring residents. This includes playing television at high volumes, pet dog barking at various times of the night etc."

- b. A letter from a neighbour dated 16 February 2024 (though given the contents it is likely to be misdated and from 16 February 2025) referring to the following:
 - i. "Continuous noise disturbances, multiple mess build ups in shared garden i.e., double bed frame, full corner couch, along with mattresses dumped in the shared garden, ... and [an] over filled stone shed which caused rats to invade the garden, where we had to pay for pest control numerous times to rectify this";
 - ii. "Multiple Police disturbances due to domestic violence";
 - iii. A "pet dog is left on his own, for long periods of time where he barks constantly, sometimes hours, until someone returns home", including a complaint "made to the SSPCA on the 15th of February 2025, due to concerns for the welfare of the dog due to him constantly barking, the welfare of his living conditions and the fact he has never been seen out in the shared garden, he only gets out when the son takes him out for a walk. Unsure if he has access to food or water";
 - iv. "Multiple complaints made to the police, due to the noise nuisances resulting in [five] incident reports" (being those from 2024 referred to in the Notice to Leave);
 - v. "Repeated incidents of excessive noise, disturbing my daily routine and sleep due to it happening throughout the early hours of the morning ... 2:00-3:00am";
 - vi. "Noise nuisances such as shouting throughout the day and night, aggressively banging constantly throughout the day that carries into late at night"; and
 - vii. "Excessive loud TV noise constantly... all day and night every day more or less unless they're away for the weekend. Spoke to them numerous times to ask them to turn it down and all I got told from Claire was to 'go to the council and complain cause there's nothing I can do about it'. I explained what could happen going to the council and she told me that was fine. She wasn't bothered about the consequences."
 - c. Around 13 March 2025, a neighbour's complaint about further noise.
 - d. 23 March 2025, a further unspecified complaint by the same neighbour.
 - e. The Council's letter of 2 December 2025 confirming receipt of complaints from neighbours about noise, a barking dog, and the Respondent verbally abusing people (though not specifying when, so it is not possible to see if these are duplicate references to incidents separately noted).
14. In the absence of any parties present, we received no submissions on reasonableness other than those in the application papers and public information. The terms of the application submitted that eviction was reasonable in consideration of:
- a. "The substantial and persistent nature of the total rent arrears";
 - b. "The lack of engagement from the tenant despite reasonable efforts" (which we took to refer to the texts and telephone contact that the Applicant referred to, including seeking a payment proposal); and
 - c. "The serious nature of the antisocial behaviour and its impact on others";
- and we also noted the following:

- d. The Title Sheet referred to the Property as being a ground floor tenement flat, and to it being mortgaged; and
- e. The neighbour's statement referred to the Respondent having a son, but it was unclear whether the son, or anyone else, resided with her at the Property on a permanent basis.

15. No motion was made for expenses.

Findings in Fact

- 16. On 14 September 2020, the Applicant let the Property as a Private Residential Tenancy to the Respondent with commencement on 16 September 2020 ("the Tenancy").
- 17. In terms of clause 8 of the Tenancy Agreement, the Respondent required to pay rent of £600 a month in advance on the 1st day of each month.
- 18. In terms of a rent-increase notice dated 30 August 2022, rent was increased to £640 each month starting from 1 December 2022.
- 19. In terms of a rent-increase notice dated 26 July 2024, rent was increased to £713.05 each month starting from 1 November 2024.
- 20. On or about 25 June 2024, Fife Council informed the Applicant's letting agent that complaints about anti-social behaviour by the Respondent had been made by neighbours and, following thereon, the Applicant obtained further details as to the behaviour that had resulted in the complaints.
- 21. As of 7 January 2025, the Respondent was in arrears of rent of £3,799.15 having failed to make regular and full payment of rent from 1 November 2023 until that date.
- 22. On 7 January 2025, the Applicant agent drafted a Notice to Leave in correct form addressed to the Respondent, providing the Respondent with notice, amongst other matters, that:
 - a. she was in rent arrears, and had failed to pay rent in four specified months; and
 - b. complaints had been raised against her in regard to anti-social behaviour.
- 23. The Notice to Leave provided the Respondent with notice that no application would be raised before the Tribunal prior to 8 February 2025.
- 24. The Applicant served a copy of the Notice to Leave on the Respondent by email on 7 January 2025.
- 25. The Applicant raised proceedings on 24 June 2025 for an order for eviction with the Tribunal, under Rule 109, relying on Grounds 12 and 14 of Schedule 3 Part 1 of the 2016 Act.

26. A section 11 notice in the required terms of the *Homelessness Etc. (Scotland) Act 2003* was served upon Fife Council on 23 June 2025 by the Applicant.
27. The Respondent has failed to make any payment towards rent since 1 December 2024.
28. The rent has been in arrears to some extent since 1 November 2023.
29. As of 16 December 2025, the Respondent remains in arrears of rent at least in the amount of £8,790.50, being the rent due for the period to 31 August 2025. This is equivalent to over a year's rent (at the current passing rent).
30. The Respondent does not claim to have paid any amount of the arrears of £8,790.50 for the period to 31 August 2025.
31. The sum of arrears for the period to 31 August 2025 is neither wholly nor partly a consequence of a delay or failure in the payment of a relevant benefit, other than any referable to an act or omission of the Respondent.
32. From in or around at least September 2024 until at least 25 March 2025, the Respondent has caused, been involved in, or has allowed friends or family members to cause, anti-social behaviour and practices in and around the Property and its common parts, to include:
 - a. Leaving waste and abandoned items in the shared garden;
 - b. Allowing her dog to bark constantly;
 - c. Noise nuisance, such as shouting and loud telephone, during day-time and night-time, in the early hours of the morning; and
 - d. Verbally abusing neighbours.
33. Intimation of the date and time of the CMD was given to the Respondent by Sheriff Officer on 30 October 2025.

Reasons for Decision

34. The application was in terms of rule 109, being an order for eviction from a PRT. We were satisfied on the basis of the application and supporting papers that the Notice to Leave had been correctly drafted and served upon the Respondent in respect of the interests of the Applicant.
35. Ground 12 of Schedule 3 to the 2016 Act (as amended and applying to this application) applies if:
 - (1) *...the tenant has been in rent arrears for three or more consecutive months. ...*
 - ...
 - (3) *The First-tier Tribunal may find that the ground named by subparagraph (1) applies if—*
 - (a) *for three or more consecutive months the tenant has been in arrears of rent, and*

(b) *the Tribunal is satisfied that it is reasonable on account of that fact to issue an eviction order.*

(4) *In deciding under sub-paragraph (3) whether it is reasonable to issue an eviction order, the Tribunal is to consider*

(a) *whether the tenant's being in arrears of rent over the period in question is wholly or partly a consequence of a delay or failure in the payment of a relevant benefit, and*

(b) *the extent to which the landlord has complied with the pre-action protocol prescribed by the Scottish Ministers in regulations.*

...

36. The arrears information provided in the application clearly showed that Ground 12 was satisfied in regard to the length of arrears and amount outstanding. There is nothing to suggest that the Respondent's failure to pay is related to an issue with benefits. Ground 12 is satisfied subject to paragraph 3(b) regarding reasonableness.

37. Ground 14 of Schedule 3 to the 2016 Act (as amended and applying to this application) applies if:

(1) *... the tenant has engaged in relevant anti-social behaviour.*

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

(a) *the tenant has behaved in an anti-social manner in relation to another person,*

(b) *the anti-social behaviour is relevant anti-social behaviour,*

(ba) *the Tribunal is satisfied that it is reasonable to issue an eviction order on account of that fact, and*

(c) *either—*

(i) *the application for an eviction order that is before the Tribunal was made within 12 months of the anti-social behaviour occurring, or*

(ii) *the Tribunal is satisfied that the landlord has a reasonable excuse for not making the application within that period.*

(3) *For the purposes of this paragraph, a person is to be regarded as behaving in an anti-social manner in relation to another person by—*

(a) *doing something which causes or is likely to cause the other person alarm, distress, nuisance or annoyance,*

(b) *pursuing in relation to the other person a course of conduct which—*

(i) *causes or is likely to cause the other person alarm, distress, nuisance or annoyance, or*

(ii) *amounts to harassment of the other person.*

(4) *In sub-paragraph (3)—*

“conduct” includes speech,

“course of conduct” means conduct on two or more occasions,

“harassment” is to be construed in accordance with section 8 of the Protection from Harassment Act 1997.

- (5) *Anti-social behaviour is relevant anti-social behaviour for the purpose of sub-paragraph (2)(b) if the Tribunal is satisfied that it is reasonable to issue an eviction order as a consequence of it, given the nature of the anti-social behaviour and—*
- (a) who it was in relation to, or*
 - (b) where it occurred.*

...

38. The details of anti-social behaviour, in particular related to noise, provided in the application showed that Ground 14 was satisfied in regard to the nature of the behaviour and the length of time it had occurred prior to the raising of the application. In the absence of any contradiction or explanation by the Respondent, we were of the view that Ground 14 was satisfied subject to paragraph 2(ba) regarding reasonableness.
39. We require, in terms of the Act as currently amended, to consider the reasonableness of the application even in regard to persistent arrears or material anti-social behaviour. We were satisfied that the Applicant's reasons for seeking eviction were reasonable given the amount and duration of the arrears, and the nature of the behaviour and its effect on neighbours. There was no evidence of any engagement by the Respondent on payment of the arrears nor on remediation of her ill-behaviour.
40. In respect of Ground 12, this is to be balanced against the lack of compliance with the pre-action protocol. There was no evidence of compliance in normal terms, but we note that the standard Notice to Leave (which was used in this case) contained advice on sources of advice. Further, the Applicant provided written submissions where he insisted that advice had been provided orally (though we decline to make a finding of fact on this, given the sparse detail in the submission). The Respondent did not appear or provide submissions in regard to any issue regarding reasonableness. In all the circumstances, including the lack of strict compliance with the pre-action protocols, we were satisfied that it was reasonable to evict on the basis of the information before us.
41. The Rules allow at rule 17(4) for a decision to be made at a CMD as at a hearing before a full panel of the Tribunal. On the basis of the information held, we are thus satisfied to grant an order for eviction at this time.

Decision

42. In all the circumstances, we grant an order against the Respondent for eviction from the Property under section 51 of the *Private Housing (Tenancies) (Scotland) Act 2016* further to both grounds 12 and 14 of Schedule 3 of that Act.

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.

Joel Conn

16 December 2025

Legal Member/Chair

Date