

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 and Schedule 3 of the Private Housing (Tenancies)(Scotland) Act 2016 (“the 2016 Act”) and Rule 109 of The First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Regulations 2017 (“the 2017 Rules”)

Chamber Ref: FTS/HPC/EV/25/2053

Re: Property at Flat 5, Earlsdon House, South Esk Street, Brechin, DD9 6DY (the Property)

Parties:

Mr Sandy Murray, 62 New Wynd, Montrose, DD10 8RF (the Applicant)

Ms Mary Reid, Flat 5, Earlsdon House, South Esk Street, Brechin, DD9 6DY (the Respondent)

Tribunal Members:

Ms. Susanne L. M. Tanner KC (Legal Member)
Ms. Jane Heppenstall (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (the tribunal):

- (1) was satisfied that Ground 12(1) in Schedule 3, Part 3 to the 2016 Act was established by the Applicant, in that for three or more consecutive months the tenant has been in arrears of rent and (b) it was reasonable to make an order for eviction in the circumstances of the case;**
- (2) was satisfied that Ground 14 in Schedule 3, part 3 to the 2016 Act was established by the Applicant, in that (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) the**

**application for an eviction order that is before the tribunal was made within 12 months of the anti-social behaviour occurring; and
(3) made an order for eviction in terms of Section 51 of the 2016 Act.**

The decision of the tribunal was unanimous.

Statement of Reasons

Procedural Background

1. On 13 May 2025, the Applicant's Representative made an application to the tribunal in terms of Section 51 of the Private Housing (Tenancies)(Scotland) Act 2016 (the 2016 Act) and Rule 109 of the First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Regulations 2017 (the 2017 Rules).
2. The Applicant seeks the Respondent's eviction from the Property in terms of Section 51 and Grounds 12 and 14 of Schedule 3 to the 2016 Act.
3. The Applicant provided the following documents in support of the Application:
 - 3.1. Private Residential Tenancy Agreement;
 - 3.2. Notice to Leave, with proof of service by email;
 - 3.3. Rent statement;
 - 3.4. Letters regarding anti-social behaviour; and
 - 3.5. Copy of Section 11 notice sent to the local authority with proof of service.
4. The tribunal requested further information from the Applicant's Representative which was provided as follows:
 - 4.1. Confirmation that the individuals whose letters were lodged with the application consented to them being disclosed unredacted to the Respondent.
5. The tribunal's administration obtained a copy of the Title Sheet for the Property on 15 May 2025, which showed that the Applicant has been registered proprietor since 13 September 2010.
6. The tribunal checked Landlord Registration Scotland which shows that the Applicant is the registered landlord for the Property, with an agent.
7. The Application was accepted for determination by the tribunal. A Case Management Discussion (CMD) teleconference was fixed for 26 November 2025 at 1400h.

8. The tribunal sent letters of notification to all parties dated 15 October 2025 with the date, time and arrangements for joining the CMD in relation to the Application. The Respondent was invited to make written representations in response to the Application by 5 November 2025. Both parties were advised that they were required to attend the CMD. The parties were advised that the tribunal may do anything at a CMD which it may do at a hearing, including making a decision on the application which may involve making or refusing an eviction order. The parties were also advised that if they do not attend the CMD this would not stop a decision or order being made if the tribunal considers that it has sufficient information before it to do so and the procedure has been fair.
9. Service of the Application paperwork and notice of the CMD on the Respondent on at the Property was by Sheriff Officers on 16 October 2025.
10. The Respondent did not submit any written representations or make contact with the tribunal's administration.

CMD: 26 November 2025, 1400h, Teleconference

11. Mr Lawson, solicitor, attended on behalf of the Applicant.
12. Ms Reid, the Respondent did not attend and did not make any contact with the tribunal's administration.

Applicant's Representative's submissions

13. Mr Lawson invited the tribunal to find both grounds established and to make an eviction order at the CMD.
14. Mr Lawson stated that:
 - 14.1. the Respondent has not engaged in the proceedings and that there has been no contact whatsoever from her to the landlord, letting agent or Mr Lawson during the tenancy. The last contact so far as he is aware is when she signed the tenancy agreement.
 - 14.2. there have been numerous attempts by the letting agents to make contact regarding the rent arrears. Ms Reid has never returned any calls or gone to the agents' office.
 - 14.3. The landlord has had no payment of any rent for the duration of the tenancy. The start date of the tenancy was 8 January 2025.
 - 14.4. There have been multiple complaints regarding anti social behaviour. The letting agent has attempted to contact regarding this. The neighbours have said that the Respondent comes and goes. There was a time when there was a problem with a pet or pets. The letting agent had to phone SSPCA.

Submissions on Ground 14

15. Mr Lawson referred to a letter from Angus Council to Ms Reid 7 May 2025 (page 53). He received a copy of that letter from the letting agent. He assumes that they were provided with a copy by the council. Mr Lawson does not know anything further about council involvement, other than he has been told by the Letting Agent that the council has not been able to get in touch with the tenant.
16. Mr Lawson referred to two letters from occupants in neighbouring properties dated 21 March 2025 (pages 54 and 55) and 3 March 2025 (page 56). These were sent to the letting agents regarding complaints about alleged anti-social behaviour by the Respondent in the Property on multiple dates.
17. Mr Lawson did not know whether the agents carried out an investigation following receipt of these complaints although he stated that they tried to get in touch with the tenant on a number of occasions. Mr Lawson did not know what the letting agents' usual cycle of inspection would be but stated that they have visited the Property. They had to gain access in relation to issues with the electricals. Mr Lawson referred to a letter from an electrical contractor dated 14 May 2025 (page 63). Mr Lawson believes that visit required access inside the Property and they did attempt to get in contact with the tenant. Mr Lawson believes that the letting agent was informed that there was a serious risk. Mr Lawson has been instructed that at that time, there were still tenant possessions within the Property and that it was a mess but it showed that someone had been in and out of the Property.

Submissions on Ground 12

18. Mr Lawson submitted that the rent arrears ground is met. He stated that the letting agent has told him that there has been no rent paid at all for this tenancy, apart from the first payment on 16 January 2025, which was a benefits payment. Mr Lawson assumes that the letting agent was expecting the rent to be paid in full by benefits. Mr Lawson has not been made aware of any application by the letting agents to have rent paid directly from the benefits agency.
19. Mr Lawson was asked by the tribunal whether there was a up to date rent statement as the one in the papers is for the period from January to April 2025. He said that he could get an updated statement from the letting agent if a short adjournment was permitted.
20. Mr Lawson was asked by the tribunal whether any attempts were made to contact the Respondent in relation to how she might resolve the arrears. Mr Lawson stated that a letter was sent by his firm on 9 May 2025 to the tenant (it was not sent

recorded delivery.) It stated that she has not paid her rent and is similar to pre-action protocol letters. Mr Lawson stated that it is not in the bundle but could be produced. There was no reply from the Respondent. He said that nothing has been sent since then from the solicitors. He said that there may have been letters from the letting agent.

Submissions regarding further procedure

21. In relation to further procedure, Mr Lawson invited the tribunal to use its powers to grant the eviction order today, if not under Ground 14, then under ground 12, in that the Respondent is in rent arrears over three consecutive months. The tenant has not paid any rent other than the first £500.00 in January 2025. He has been informed of the updated position by the letting agents. As an agent of the court he has advised the tribunal of the current position.
22. Mr Lawson stated that further investigations into the anti-social behaviour would cost the landlord money. They are not receiving any rent payment whatsoever. The prospects of recovering the rent are low and they have missed out. With reference to a question from the tribunal about whether a chronology and supporting documents could have been obtained from the letting agents, Mr Lawson stated that it is not as straightforward as putting a request to the letting agent and receiving documents, as it would still require the solicitors to peruse, with costs involved, which are not insignificant when the landlord is not receiving rent for the Property. Mr Lawson stated that he appreciates that the tribunal has to be satisfied that the ground is there at the time of making the eviction order. He relied on the fact that the Application is without any opposition; there have been complaints of anti-social behaviour; the council has been involved; and there are documents from an electrician saying that a meter has been bypassed which presented a risk to those in the block of flats. He submitted that the allegations of anti-social behaviour are not being opposed by the tenant, who has not lodged any written representations or attending this hearing. He submitted that there is substantiated evidence that anti-social behaviour has been engaged in.
23. Mr Lawson urged the tribunal to seriously consider whether they require an evidential hearing. He stated that the length of time for an evidential hearing will be months down the line, probably February or March 2026, further months in which the landlord is not receiving any rent payment.
24. In the first instance the tribunal adjourned for 20 minutes between 1440 and 1500 to Mr Lawson to obtain two additional documents referred to in his submissions in relation to Ground 12: (i) an up to date rent statement and (ii) a copy letter sent from the solicitors to the Respondent about rent arrears in May 2025.

Late documents and additional submissions

25. When the tribunal re-convened Mr Lawson produced the documents: (i) Rent statement dated 26 November 2025 and (ii) letter from MML Solicitors to Ms Reid dated 9 May 2025, and sought leave to lodge them, although late. The tribunal allowed them to be lodged, although late, on the basis that the Respondent had the opportunity to engage in proceedings but has chosen to absent herself from the CMD; she will be aware what rent is due under the tenancy agreement and will know whether she has made payment; she did not dispute the previous rent arrears statement which was sent with the Notice to Leave and included with the Application; and the letter from the solicitors was sent directly to her in May 2025, so it can be reasonably inferred that it was received and she is already aware of it. Any prejudice to the Respondent is outweighed by the other factors in the overriding objective to deal with proceedings justly, which includes avoiding unnecessary delay. Copies of the late additional documents will be sent to the Respondent by mail following the CMD.
26. Mr Lawson also stated that during the adjournment he had also asked the letting agents about what investigations had been undertaken in relation to the neighbours' complaints and was told that they could not get in contact with Ms Reid to investigate, so they got Angus Council involved. The council was also unable to contact Ms Reid. She did not attend the arranged meetings. Mr Lawson stated that as the letting agents understand it the tenant is now no longer living in the property although she has not confirmed this or returned the keys to the Property. Their basis for believing that is that electric meter is in debt so there is no power in the Property.
27. The tribunal invited Mr Lawson to make submissions in relation to Ground 14, with reference to the statutory requirements, if he wished to insist on it in relation to Ground 12.
28. Mr Lawson submitted that the behaviour in the two letters from neighbours in March 2025 amounts to 'relevant anti-social behaviour' for Ground 14. In relation to 14(2)(a) he submitted that the Respondent acted in an anti-social manner in relation to other people. He referred to the letter at page 54, which is one of the complaints from an occupant of a neighbouring property, which includes a number of dates on which there have been complaints of loud music playing from the flat., dog being left, which barked throughout the night and a strong smell of 'weed'. He also referred to the second complaint letter on page 56, which lists similar issues. He submitted that the numerous issues listed are likely to cause nuisance and annoyance to those individuals. He submitted that it was relevant anti-social behaviour in terms of 14(3)(a) and 14(3)(b)(i) and that it was a course of conduct on more than two occasions.

29. Mr Lawson relied on those two letters of complaint and also the fact that the council had to become involved, referring to page 53 in the bundle.
30. Mr Lawson stated that he was not relying on the alleged bypassing of the electricity meter as constituting anti-social behaviour as without hearing evidence on that issue he stated that there would not be enough to meet the test that others were distressed or annoyed or that it caused a nuisance.
31. In response to a query from the tribunal about whether consent had been given by the neighbouring proprietors for their letters to the letting agents to be lodged and relied on in tribunal proceedings, Mr Lawson stated that during the tribunal sifting process, his firm had been asked whether the individuals wished their names to be redacted. He asked the letting agent to make an enquiry. Mr Lawson received a document from the letting agent with these peoples' signatures saying that they gave full permission to use their names. The letter from the solicitors confirming that position is in the bundle. The tribunal noted that the letter from his firm does not state that the individuals consent to their names appearing in a published tribunal decision. Mr Lawson stated that he has no issue if the tribunal are minded to anonymise, or redact, the complainers' names.
32. Mr Lawson reiterated his submissions regarding rent arrears. He relied on the late documents which he submitted supported the position that the tenant is in rent arrears and has been for a substantial period of time over the entire tenancy, following payment of the first month's rent in January 2025. The letting agency has served the NTL on that basis. The solicitors wrote to the Respondent on 9 May 2025 and the Respondent has been served with the Application paperwork. At no time has the Respondent got in touch with the solicitors, the landlord or the letting agent to discussing bringing payments up to date. He submitted that the ground is satisfied and it would be reasonable to evict the tenant. He relied on the fact that the Application is unopposed and referred to the information received in the earlier adjournment that it seems that the tenant is no longer staying in the Property but still has keys.
33. The tribunal asked Mr Lawson whether communications other than his firm's letter were sent to the tenant about the rent account. He stated that he did not know if other correspondence had been sent by the letting agent about the rent arrears increasing. He stated that the tenant would have been aware of their obligation to pay the rent.
34. The tribunal adjourned to deliberate.

35. The tribunal makes the following findings-in-fact:

- 35.1. The Applicant is the registered proprietor of the Property.
- 35.2. There is a private residential tenancy agreement between the Applicant and the Respondent for the Property which began on 8 January 2025.
- 35.3. Rent is payable at the rate of £500.00 per calendar month in advance on 8th day of each month.
- 35.4. Payment of £500.00 housing benefit was made to the Respondent's rent account on 16 January 2025.
- 35.5. No further payments of Housing Benefit have been made for Respondent's tenancy of the Property.
- 35.6. The Respondent did not pay rent falling due on 8 February, 8 March or 8 April 2025.
- 35.7. By 8 April 2025 the rent arrears were £1500.00
- 35.8. In or about March 2025, the Applicant's letting agent received complaints from three neighbouring occupants of the Property, complaining about the behaviour of the Respondent.
- 35.9. On multiple occasions in 20 March 2025, the Respondent played loud music in the Property at unsociable times, on multiple occasions.
- 35.10. On one occasion in March 2025, police officers attended at the Property in response to a complaint and confiscated speakers.
- 35.11. On multiple occasions in March 2025, the Respondent left dogs unattended in the Property, which barked during the day and night.
- 35.12. On or about 26 March 2025, dogs which had been left unattended by the Respondent for multiple days were removed from the Property by SSPCA and re-homed.
- 35.13. The Respondent's said course of conduct in March 2025 caused distress, annoyance and nuisance to three occupants of neighbouring properties.

- 35.14. On 9 April 2025, a Notice to Leave dated 8 April 2025, containing grounds 12 and 14 of Schedule 3 to the 2016 Act was served on the Respondent.
- 35.15. On 7 May 2025, Angus Council contacted the Respondent by letter in relation to complaints of anti-social behaviour and arranged a visit for 9 May 2025.
- 35.16. On 8 May 2025, the Applicant's solicitor sent a letter to the Respondent in relation to rent arrears offering various options, to which the Respondent did not reply.
- 35.17. On 9 May 2025, the Applicant's letting agent attended at the Property with a representative from Angus Council Anti-social behaviour department for the visit. There was no answer at the Property.
- 35.18. The Applicant's letting agent has attempted to contact the Respondent by phone, email and property visits without success.
- 35.19. On or around 14 May 2025, entry was forced to the Property because a report was received that the electricity meter had been bypassed, placing other residents in the tenement at risk. Remedial works were carried out to the wiring.
- 35.20. The Applicant has given the Respondent at least 28 days' notice that she requires possession.
- 35.21. The Application to the tribunal was made on 13 May 2025.
- 35.22. The Respondent has failed to meet all rent payments following the first payment of housing benefit on 16 January 2025.
- 35.23. As at 26 November 2025, the rent arrears were £5000.00 and there have been rent arrears for more than three consecutive months.
- 35.24. The rent arrears are not a consequence of delay or failure in payment to the Respondent of relevant benefits.
- 35.25. The Respondent may be residing elsewhere but she has not informed the Applicant, the Applicant's letting agent or the Applicant's solicitor.
- 35.26. The Respondent has retained the keys to the Property.

35.27. The Respondent has not opposed the Application, the level of rent arrears or the allegations of anti-social behaviour.

Discussion

36. The order for eviction is sought in terms of Section 51 and Grounds 12(2) and 14 of Schedule 3 to the 2016 Act.

37. The tribunal is satisfied that the facts required in Ground 12(2) of Schedule 3 have been established, in that there have been rent arrears for over three consecutive months and the rent arrears currently stand at £5000.00.

38. In relation to reasonableness of evicting on this ground, the Respondent has not opposed the Application. Reference is also made to the tribunal's findings in fact. Since the single payment of housing benefit of £500.00 paid to the letting agent on 16 January 2025, the Respondent has paid nothing in rent for the tenancy. The Respondent has not replied to any communications, or visits by the letting agent. The Respondent may have left the Property but has retained keys. In all the circumstances the tribunal is satisfied that it is reasonable to evict the respondent on this ground.

39. Separately, the tribunal is satisfied that the facts required in Ground 14 have been established and that the Respondent has engaged in relevant anti-social behaviour towards three neighbouring occupants, who have been caused distress, annoyance and nuisance by the Respondent's course of conduct in March 2025.

40. In terms of para. 14(5), the tribunal is also satisfied that it is reasonable to issue an eviction order as a consequence of the behaviour, given the nature of the behaviour and who it was in relation to (neighbours) and where it occurred (at the Property).

41. In terms of para. 14(2)(ba) the tribunal is satisfied that it is reasonable to issue an eviction order on account of the fact that it is relevant anti-social behaviour. Reference is made to the considerations taken into account above in relation to reasonableness, in particular the fact that there is no opposition to the Application and the fact that the Respondent may have left the Property but retained the keys. In addition, in relation to the relevant anti-social behaviour, she has received correspondence from council and the letting agent to which she has not replied and SSPCA had to get involved and remove the animals for their own protection.

In all the circumstances it is reasonable to issue an eviction order on account of the fact that the Respondent has engaged in relevant anti-social behaviour.

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.

Susanne Tanner

**Ms. Susanne L. M. Tanner K.C.
Legal Member/Chair**

Date: 26 November 2025