



**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**

**Chamber Ref: FTS/HPC/EV/24/4053**

**Re: Property at Room 1, Union Arcade, 33 Burns Statue Square, Ayr, KA7 1SW  
("the Property")**

**Parties:**

**Mr James Jeffreys, 45 Burns Statue Square, Ayr, KA7 1SZ ("the Applicant")**

**Mr Jack Hill, Room 1, Union Arcade, 33 Burns Statue Square, Ayr, KA7 1SW  
("the Respondent")**

**Tribunal Members:**

**Mary-Claire Kelly (Legal Member) and Gerard Darroch (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined to grant an order for eviction. The Tribunal determined to suspend enforcement of the order until 31 March 2026.**

**Background**

1. By application dated 30 August 2024 the applicant sought an order for eviction relying on ground 11 (breach of tenancy agreement) in schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016.
2. A case management discussion took place via teleconference on 9 May 2025. The applicant was represented by Ms Archibald, solicitor from

Wallace Hodge solicitors. The respondent was represented by David Anderson, Ayr Housing Aid Centre. The respondent disputed that there had been a breach of tenancy agreement and that it was reasonable to grant an order. The Tribunal determined to fix an evidential hearing.

### **Hearing – video conference – 21 January 2026**

3. The applicant was in attendance. He was represented by Mr Ferrie, Wallace Hodge Solicitors. The respondent was represented by Mr Tierney, Ayr Housing Aid Centre. Mr Tierney stated that he had received an email on the morning of the hearing from the respondent. The email stated that the respondent was unable to attend due to his medical conditions. Mr Tierney stated that the respondent suffers from anxiety and depression. Mr Tierney did not seek an adjournment of the hearing. He stated that he would represent the respondent's interests. He stated that a part heard hearing might enable the hearing to proceed with the respondent's evidence being taken at a later date. Mr Tierney also sought leave to submit a second inventory of productions. The productions comprised various documents and photographs and a video clip showing an altercation between the parties in the property. Mr Ferrie did not oppose the late written submissions. He opposed any adjournment of the hearing.
  
4. The Tribunal adjourned briefly to consider matters. The Tribunal determined to proceed with the hearing. The Tribunal did not accept the request to part-hear the case. The applicant had sent an email at the last minute to their representative with no supporting evidence that their medical conditions meant they were unable to participate via videoconference. The Tribunal was aware that the respondent had depression and anxiety and was in a position to consider reasonable adjustments however it was not reasonable in the circumstances to postpone the case further particularly in light of the late request, the lack of evidence of an immediate medical issue and the impact on the applicant of a further adjournment.

5. The Tribunal allowed the second inventory of productions to be accepted under exception of the video clip. There were technical issues in ensuring the video clip was available to the Tribunal given the late stage of submission. The Tribunal noted that a description of the clip had been submitted and it was open to Mr Tierney to make submissions on the contents which would minimise any prejudice to the respondent.

### **Oral evidence at the hearing**

6. Summaries of the oral evidence heard at the hearing are undernoted. For the avoidance of doubt it is not a verbatim record and focuses on the areas relevant to the application and in particular areas of dispute between the parties. The Tribunal heard oral evidence from the applicant and his witnesses, Heather Harrold, who previously worked as a cleaner at the property and Colin Harris a previous tenant in the HMO. Mr Tierney cross examined the witnesses and made submissions setting out the respondent's position.

### **Summary of Heather Harrold's evidence**

7. Ms Harrold previously worked as a cleaner within the property. She stated that whilst she was working she would bump into Mr Hill now and again. She stated that she left her employment as she didn't feel safe working in the building. She stated that Mr Hill tried to make herself and everyone else's life a misery. She stated that on one occasion on 23 April 2024 she was vacuuming when Mr Hill came out of his room in an angry mood. She stated that he was looking to cause trouble. She stated that he started screaming in her face about her husband who had previously passed away. He also stated that she was a bad cleaner. Ms Harrold stated that she was terrified and tried to get away from Mr Hill. She went into another room hoping that he would go away. She stated that when she left the building he was standing on the porch. She stated that the incident lasted about half an hour. She stated that she was aware that after the incident there was an altercation between Mr Jeffreys and Mr Hill.

8. Ms Harrold stated that her brother had been a resident in the property at the time she worked as a cleaner. She stated that she cleaned the property once a week. She stated that there had been issues relating to the cleanliness of the property and stated that she had received no other complaints about the standard of clearing. She stated that after she left a friend had taken on the position. She was not aware of any issues experienced by her replacement.

#### **Summary of Colin Harris' evidence**

9. Mr Harris stated that he was a former resident of the property. He had resided in room 4 which was approximately 15m away from room 1 where Mr Hill lived. Mr Harris stated that he had repeated issues with Mr Hill. He stated that on one occasion there had been an incident regarding rubbish. Mr Harris stated that he had been working at home. He had taken some rubbish in a black bag into the kitchen. He had intended to take the rubbish downstairs to the main bin. Mr Hill had taken the rubbish bag and deliberately spilt the contents over the hallway. Mr Harris stated that Mr Hill constantly left notes around the property complaining about the mess and noise. He referred to dozens of notes that had been put up and stated that many of them had been full of profanities. Mr Harris stated that Mr Hill was frequently aggressive when he met him in the hallway. Mr Harris stated that the notes were frequently about Mr Hill being woken up. Mr Harris stated that there was a communal hallway with people leaving for work early in the morning which annoyed Mr Hill. He would frequently hear Mr Hill shouting in the morning. Mr Harris stated that he was in the property on the 23 April 2024. He stated that Ms Harrold had come up to his room and had been very upset. After the incident she was too frightened to work in the building unless Mr Harris kept his door open. Mr Harris stated that there were occasions when all the heaters would be turned on by Mr Hill making the shower room like a sauna. He stated that Mr Hill's behaviour had been a factor in his decision to move away however it was not the only reason. Mr Harris stated that Mr Hill's room was beside the fire door and therefore he would have been closer to the noise of the door being used. It was put to Mr

Harris that Mr Hill had been frustrated at him due to his lack of cleanliness in the property. That was not accepted by Mr Harris.

### **Summary of Mr Jeffreys evidence**

10. Mr Jeffreys stated that his occupation was property investor. He stated that he is the sole director of the company which owned the property. The property is a House of Multiple Occupation (HMO) with a number of tenants occupying single rooms with shared bathroom and kitchen facilities. Mr Jeffreys stated that there is mix of tenants in the property, some with vulnerabilities and some who had recently arrived in the country. He stated that for some tenants the property was a “halfway house” where they tried to get themselves back on their feet.
11. Mr Jeffreys stated that he had requested a notice to leave be served on Mr Hill after the incident on 23 April 2024. He stated that he lived across the road from the property. He stated that he had seen an altercation between Ms Harrold and Mr Hill when he came out of his property. He stated that Ms Harrold was shaking and stunned and he had witnessed Mr Hill speaking to her in an intimidating manner. He stated that he ran down to see what was happening. He stated that Ms Harrold had told him about what Mr Hill had said about her deceased husband.
12. Mr Jeffreys stated that there had been other issues of concern with Mr Hill over the past 2 or 3 years. He stated that he had issues with Mr Hill’s threatening manner. He stated that tradespeople working the property had also been spoken to aggressively by Mr Hill.
13. Mr Jeffreys stated that Mr Hill had interfered with the drainage system in the property and had deliberately blocked the toilet. He stated that Mr Hill interfered with heaters, changing their settings and forced open a fuse box outside of the property. He was referred to a photograph that had been submitted and stated that Mr Hill would wedge bits of paper into the light switches to keep them on.

14. Mr Jeffreys was referred to photographs of various signs put up in the property. He confirmed that he had taken the photographs.

15. Mr Jeffreys stated that he had been charged with assaulting Mr Hill after an incident at the property on 3 June 2025. He stated that he had been found guilty however the disposal had been an absolute discharge. He stated that he regretted that he had acted in the way he did which was due to his frustration with Mr Hill.

16. Mr Jeffreys stated that smoking cannabis in the property would be a breach of tenancy agreement. He was referred to medical notes that had been submitted which referred to Mr Hill's cannabis use.

17. Mr Jeffreys was referred to a news article which stated that Mr Jeffreys had been convicted of sexual offences and had been placed on the sex offenders register. Mr Jeffreys stated that the article had been in the local newspaper. He had become aware of it when another resident had contacted him to make him aware.

18. Cross examination: Mr Jeffreys stated that he had not had any dialogue with Mr Hill for 2 years. He stated that Mr Hill had previously raised an issue with the fire door being loud. He had also raised issues about the standard of cleaning in the past and had contacted environmental health officials to attend the property on a number of occasions. Mr Hill stated that the environmental health officers found no problems with the cleanliness of the property. Mr Jeffreys was uncertain as to whether he had told Mr Hill to take the issue of cleanliness up directly with Ms Harrold.

19. Mr Jeffreys stated that in relation the incident on 23 April 2024 he had taken a fire extinguisher and broken the door to Mr Hill's room. He accepted that he lost his temper as he was frustrated. He stated that the police were called

on the day and spoke to both him and Mr Hill however neither was charged. Mr Jeffreys stated that he was cross with himself for losing his composure but it was due to what Mr Hill had said to Ms Harrold.

20. Mr Jeffreys was referred to the incident on 3 June 2025. The Tribunal and parties had viewed a video of the incident. Mr Jeffreys stated that on that occasion he again became frustrated with Mr Hill and was found guilty of assault. He stated that he regretted that he had become frustrated.

21. Mr Jeffreys stated that Mr Hill was on good terms at present with the resident of room 5 however they had previously fallen out. He accepted that not all the other tenants had an issue with Mr Hill. Mr Jeffreys stated that the property is an HMO with a number of vulnerable tenants. He stated that in his view the property was not a suitable environment for Mr Hill. He stated that the current cleaner had not raised any issues however that may be due to the fact that her husband works downstairs.

22. Mr Jeffreys stated that Mr Hill refused access to his room for the purpose of carrying out statutory safety checks and routine inspections. Mr Jeffreys stated that there had been recent issues with other tenants being threatened or intimidated by Mr Hill that he had been made aware of. One tenant had been threatened by Mr Hill for allegedly slamming a door. Another tenant had been pushed by Mr Hill in the kitchen.

#### **Submissions on behalf of the respondent**

23. Mr Tierney submitted that the evidence against Mr Hill amounted to shouting about doors being banged, rubbish being spilt on one occasion and Ms Harrold being upset on one occasion.

24. In relation to the incident relating to the rubbish being spilt he stated that Mr Harris did not actually see the rubbish being thrown. He stated that the issue may be related to Mr Hill's general frustration at the lack of cleanliness in the property. He submitted that this did not satisfy the test of lack of respect for others.

25. Mr Tierney stated that Mr Hill had previously denied completely that he had verbally abused Ms Harrold. Mr Tierney referred to the length of time that had passed since the alleged incidents and stated that there had been periods when there had been no issues.

26. Mr Tierney referred to the 2 physical altercations between the parties. He stated that Mr Jeffreys had sought to minimise his behaviour. He referred to photographs which had been submitted which showed that on 23 April 2024 he had broken down the respondent's door using a fire extinguisher. This was a serious incident. Mr Tierney stated that the only person who had been charged in relation to their conduct in the property was Mr Jeffreys, not Mr Hill.

27. Mr Tierney stated that the application proceeded on ground 11 – breach of tenancy agreement. The Tribunal should not consider different grounds relating to antisocial behaviour. In relation to reasonableness Mr Tierney referred to the medical notes that had been submitted which showed that the respondent had significant health issues which made him more vulnerable.

28. Mr Tierney stated that Mr Hill had made a homelessness application which had been accepted on 16 May 2024. He referred to a document that had been submitted showing that Mr Hill was number 1 on the waiting list in some of the areas that he has chosen. He stated that any accommodation offered to Mr Hill would be subject to checks as a result of his recent conviction. He stated that the housing department were aware of the eviction hearing and he would be updating them. He advised that in the event an eviction order was granted additional time would be required to access alternative accommodation particularly in light of Mr Hill's conviction and supervision requirements. He stated that he had spoken to the housing officer dealing with the application who had stated that a 3 month period would be required to source alternative accommodation.

### **Submissions on behalf of the applicant**

29. Mr Ferrie invited the Tribunal to make an order. He submitted that the respondent was served with a notice to leave on 29 April 2024. He stated the respondent's conduct and conviction amounted to antisocial behaviour as set out in clause 20 of the tenancy agreement. Mr Ferrie invited the Tribunal to accept the evidence of Mr Harris and Ms Harrold in relation to the respondent's conduct. He stated that the applicant gave his evidence in a calm manner. He had not lacked candour or shied away from the fact that he had become frustrated as could be seen in the footage viewed by the Tribunal. However, the criminal charges that had been brought against him had resulted in an absolute discharge. He stated that Mr Jeffreys had worked as a TV producer for 20 years before moving into property. He stated that the situation in the property is not a healthy situation for either party. He stated that the conduct of the respondent amounted to a breach of the tenancy agreement and invited the Tribunal to find that it was reasonable to grant an order.

### **Findings in fact**

30. The Tribunal found the following facts to be established:

- i. Parties entered into a private residential tenancy agreement with a commencement date of 15 September 2022.
- ii. The property is a room within a House of Multiple Occupation owned by the applicant.
- iii. Monthly rent for the property is £325.
- iv. The respondent shares bathroom and kitchen facilities with other occupants of the building.
- v. A notice to leave specifying ground 11 (breach of tenancy agreement) was served on the respondent on 29 April 2024.
- vi. Heather Harrold was previously employed as a cleaner of the property.

- vii. On 23 April 2025 the respondent shouted and verbally abused Heather Harrold placing her in a state of fear and alarm.
- viii. The applicant and respondent were involved in a physical altercation following the incident with Ms Harrold. The police were called however no charges were brought against either party.
- ix. The respondent placed notices in the public areas of the building on a number of occasions containing profane language directed at other residents of the building.
- x. Colin Harris was a previous tenant of a room within the HMO on the same corridor as the respondent.
- xi. On one occasion the respondent deliberately emptied a bag of Mr Harris' rubbish in the hallway of the property.
- xii. The respondent frequently shouted at other residents early in the morning as they were leaving the property.
- xiii. The respondent was convicted of sexual offences during the period of the tenancy.
- xiv. On 3 June 2025 a physical altercation took place between the parties in the respondent's bedroom. As a result the applicant was charged with assault. After a trial the applicant was found guilty. The disposal was an absolute discharge.
- xv. The respondent has an active homelessness application with South Ayrshire Council. The respondent is at position 1 on the housing allocations list for a number of his preferred areas.
- xvi. The respondent will be subject to multi-agency supervision and public protection arrangements in his accommodation as a result of his sexual offences conviction.
- xvii. The respondent suffers from anxiety and low mood.
- xviii. The respondent has been receiving support from a Forensic Psychologist since his recent conviction.

### **Findings in fact and law**

- i. The respondent has breached clause 20 of the private residential tenancy agreement.

- ii. It is reasonable in all the circumstances to grant an order for possession.

### **Reasons for the decision**

31. The Tribunal had regard to the written submissions, video clip and documentary evidence submitted in advance of the hearing together with the evidence of the applicant and his witnesses and the submissions of Mr Ferrie and Mr Tierney in reaching its decision.

32. Ground 11 states:

*(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 sub-paragraph (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.*

33. The Tribunal found Ms Harrold to be a credible witness. The Tribunal accepted her evidence that she had been verbally abused by the respondent on 23 April 2024 to the extent that she was placed in a state of fear and alarm. The Tribunal also accepted her evidence that she decided to cease her employment at the property due to the conduct of the respondent. Ms Harrold's evidence on the incident in April 2024 was corroborated by Mr Harris and the applicant. Mr Tierney suggested on behalf of the respondent that his conduct may have arisen from frustration at the cleanliness of the property. The Tribunal determined that even if this had been accepted (which it was not) this would not have provided an excuse for the respondent's behaviour towards Ms Harrold.

34. The Tribunal accepted the evidence of Mr Harris and the applicant in relation to the signs that had been placed around the property by the respondent. Their evidence was corroborated by photographs showing a large number of signs that had been placed around the property. A number of the signs contained profane and abusive language directed at other residents of the HMO. Mr Tierney had submitted that not all of the signs used offensive language and submitted that the respondent had placed the signs as a result of his frustration at various issues within the property. The Tribunal determined that even if that was accepted that there was some justification for the signs (which it was not) if did not excuse the use of offensive and abusive language on a number of occasions directed at other residents.

35. The Tribunal accepted Mr Harris' evidence that the respondent frequently shouted loudly at other residents in the morning. This was corroborated by the contents of the signs many of which related to the respondent's issues with noise caused by other residents. The Tribunal were not presented with any evidence that the noise experienced by the respondent was unreasonable.

36. The Tribunal took into account that the respondent had been convicted of a criminal offence relating to sexual offences during the period of his tenancy.

37. Clause 20 of the tenancy agreement states:

#### **20. RESPECT FOR OTHERS**

*The Tenant, those living with him/her, and his/her visitors must not engage in antisocial behaviour to another person. A person includes anyone in the Let Property, a neighbour, visitor, the Landlord, Agent or contractor.*

*“Antisocial behaviour” means behaving in a way which causes, or is likely to cause, alarm, distress, nuisance or annoyance to any person; or which amounts to harassment of any person. Harassment of a person includes causing the person alarm or distress. Antisocial behaviour includes speech.....*

*In addition, the Tenant, those living with him/her, and his/her visitors must not engage in the following unlawful activities:*

- use or carry offensive weapons;*
- use, sell, cultivate or supply unlawful drugs or sell alcohol;*
- store or bring onto the premises any type of unlicensed firearm or firearm ammunition including any replica or decommissioned firearms.*
- use the Let Property or allow it to be used, for illegal or immoral purposes;*
- threaten or assault any other Tenant, member of his/her household, visitors, neighbours, family members of the Landlord or employees of the Landlord or Agent, or any other person or persons in the house, or neighbourhood, for whatever reason*

The Tribunal determined that respondent's conviction, his conduct towards Ms Harrold and the placing of abusive signs were each a breach of clause 20 of the tenancy agreement.

38. The Tribunal proceeded to consider the reasonableness of granting an order. In assessing whether it is reasonable to grant an order all available facts relevant to the decision were considered and weighed in the balance, for and against. The Tribunal gave significant weight to the multiple breaches of tenancy agreement that had occurred relating to different aspects of the respondent's behaviour. The Tribunal also took into account that the respondent's behaviour had impacted other tenants and staff in the HMO. The Tribunal gave weight to the respondent's recent conviction which

was related to a sexual offence which resulted in his being placed on the sex offenders register and subject to statutory supervision.

39. The Tribunal gave significant weight to the fact that the respondent had not accepted any fault on his part in relation to his alleged conduct towards other tenant's or Ms Harrold but had sought to justify his behaviour. The Tribunal accepted that in relation to the 2 physical altercations in the property, there had been fault on the part of the applicant however apart from those 2 incidents, the respondent's lack of insight into the impact of his behaviour was a significant factor.
40. The Tribunal gave significant weight to the fact that the respondent had an active homelessness application with the local authority and was at the top of the list for some of his preferred areas. The Tribunal took into account that the respondent would be subject to supervision requirements which meant that accommodation in an HMO with shared facilities may not be the most suitable accommodation.
41. The Tribunal took into account and gave weight to the information provided relating to the respondent's medical conditions. The Tribunal accepted the unopposed evidence that the respondent suffered from depression and anxiety. The Tribunal also took into account the letter provided from the respondent's forensic psychologist that had been submitted and showed that the respondent was accessing treatment and had raised issues with the impact his accommodation and his interactions with the applicant had on him. Against this the Tribunal noted that there had been limited progress with the respondent and the medical notes provided showed that he had been refused access to mental health services due to cannabis use.
42. Taking the above factors into account the Tribunal determined that on balance it was reasonable to grant an order for eviction. The Tribunal

determined that it was reasonable in the circumstances to suspend enforcement of the order until 31 March 2026 to maximise the chances of appropriate alternative accommodation being provided to the respondent under his ongoing homelessness 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.**

# **Mary-Claire Kelly**

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**Legal Member/Chair**

**Date: 21 January 2026**