



**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/25/1129; FTS/HPC/EV/25/1309;  
FTS/HPC/EV/25/1908; FTS/HPC/EV/25/4053**

**Property : 25 Long Craigs, Port Seton, East Lothian EH32 OTR (“Property”)**

**Parties:**

**Alison Watson, 26 Seton Wynd, Port Seton, East Lothian EH32 OTY (“Applicant”)**

**DJ Alexander Lettings Limited, John Cotton Business Centre, 10 Sunnyside, Edinburgh EH7 5RA (“Applicant’s Representative”)**

**Damon Kelly, 25 Long Craigs, Port Seton, East Lothian EH32 OTR (“Respondent”)**

**Tribunal Members:**

**Joan Devine (Legal Member)**

**Elizabeth Williams (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“Tribunal”) determined to grant an order for possession of the Property.**

1. The Applicant sought recovery of possession of the Property. The Applicant had lodged four applications using Form E. The document produced common to each application was a Tenancy Agreement between the Applicant and the Respondent which commenced on 9 September 2022 (“Tenancy Agreement”). Each application also included notification to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 with covering email.
2. Application EV/25/1129 included a copy Notice to Leave addressed to the Respondent under Section 50(1)(a) of the Private Housing (Tenancies) (Scotland) Act 2016 (“Act”) dated 17 January 2025 founding upon ground 12 for eviction with covering email of the same date (“Notice to Leave 1”); statement of rent arrears; evidence of compliance with the pre-action requirements and rent increase notice which increased the rent from £650 to £704.20 with effect from 9 July 2024.

3. Application EV/25/1309 included a copy Notice to Leave addressed to the Respondent under Section 50(1)(a) of the Act dated 5 February 2025 founding upon grounds 11 and 14 for eviction with covering email of the same date ("Notice to Leave 2"); inspection reports dated 6 December 2024; 7 February 2025 and 16 July 2025; copy email referencing calls from neighbours expressing concern about welfare of dogs at the Property in December 2024; copy messages referencing smashed windows at the Property in July 2024 with copy photographs; copy messages referencing complaints about dogs at the Property in late 2023 / early 2024 as well as July 2024; copy statement from neighbour regarding noise from dogs in the Property and a rock being thrown through their window at midnight on the same evening that windows in the Property were smashed on 30 July 2024.
4. Application EV/25/1908 included a copy Notice to Leave addressed to the Respondent under Section 50(1)(a) of the Act dated 21 March 2025 founding upon ground 13 for eviction with covering email of the same date ("Notice to Leave 3"); copy online article dated 16 March 2025 referring to the Respondent appearing at Edinburgh Sheriff Court and being banned from driving for 4 years and 10 months.
5. Application EV/25/4053 included a copy Notice to Leave addressed to the Respondent under Section 50(1)(a) of the Act dated 19 June 2025 founding upon ground 1 for eviction with covering email of the same date ("Notice to Leave 4") and agency agreement entered into between the Applicant and the Applicant's Representative regarding the sale of the Property.
6. The Application was served on the Respondent by sheriff officer on 19 December 2025. On 9 February 2026 the Applicant's Representative lodged an updated statement of rent arrears which indicated arrears of £10,072.36 covering the period July 2024 to January 2026.

### **Case Management Discussion ("CMD")**

7. A CMD took place before the Tribunal on 12 February 2026 by teleconference. The Applicant was represented by Martin Urquhart of the Applicant's Representative. The Respondent was not in attendance.
8. Mr Urquhart told the Tribunal that there had been recent attempts to contact the Respondent but he did not respond. He said that staff had attended the Property and spoken with neighbours so were satisfied that the Respondent continued to occupy the Property. He said that the Respondent lives in the Property alone, is aged in his late 30s and is not working. Mr Urquhart told the Tribunal that the Respondent's tenancy of the Property had been an

exceptionally difficult tenancy which the Applicant had found to be very stressful. He said that both her mental and general health had been negatively impacted by the tenancy. He said that the Respondent had kept 2 dogs at the Property but 1 had been removed by the RSPCA. He said that the Applicant had inherited the Property from her husband 16 years ago when he passed away. He said that the Applicant has 2 adult children and 3 grandchildren. He said she cares for her father who is currently in hospital. He said the Applicant does not own other rental properties and she wishes to sell the Property and exit the rental market.

9. As regards Notice to Leave 1, the Tribunal noted that the rent arrears are now £10,072.36. Mr Urquhart said that there had been extensive communication with Universal Credit in an attempt to have the housing benefit element paid direct to the Applicant but it was only recently that they had made payment of rent. He confirmed that the payments made in December 2025 and January 2026 were from Universal Credit.
10. As regards Notice to Leave 2, the Tribunal noted that this was based on grounds 11 and 14. As regards ground 11, Mr Urquhart said that the breach complained of related to the condition of the Property. He said that the inspection carried out on 6 December 2024 indicated that the Respondent had failed to take reasonable care of the Property. He said that the flooring in the Property had been damaged and there was evidence of smoking. He said that the Respondent disconnected the smoke detectors and they had to be re-connected. As regards ground 14, Mr Urquhart said that the anti-social behaviour complained of was the behaviour referred to in the statement lodged from a neighbour to the Property regarding smashed windows. He said that every window in their property was smashed. He said that as the incidents became worse, witnesses became more reluctant to provide evidence.
11. As regards Notice to Leave 3, the Tribunal noted that the evidence lodged related to a driving offence and therefore ground 13 was not established. Mr Urquhart said he believed there may have been other criminal activity but he had no evidence of that.
12. As regards Notice to Leave 4, Mr Urquhart told the tribunal that he believed extensive work would require to be undertaken to the Property before it could be marketed for sale. He said that the dogs were left unattended in the Property and therefore urinated in the Property. He believed the floor boards would be damaged. He said that his staff reported that the Property resembled a squat. He said he could not say how long the refurbishment work would take until vacant possession was obtained, the Property was assessed and contractors were instructed.

## **Findings in Fact**

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent entered into a Tenancy Agreement which commenced on 9 September 2022.
2. Notice to Leave 1 was served by email in 17 January 2025.
3. At the date of service of Notice to Leave 1 and the date of making the Application, the Respondent had been in rent arrears for three or more consecutive months.
4. Notice to Leave 2 was served by email on 5 February 2025.
5. Section 17 of the Tenancy agreement states that the Respondent will take reasonable care of the Property.
6. Notice to Leave 3 was served by email on 21 March 2025.
7. Notice to Leave 4 was served by email on 19 June 2025.
8. Notification was provided to the Local Authority in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003.

## **Findings in fact and law**

1. The Respondent failed to comply with an obligation under the tenancy in that the Respondent failed to take reasonable care of the Property.
2. The Respondent does not have a relevant conviction for the purposes of ground 13 in schedule 3 of the 2016 Act.

## **Reasons for the Decision**

13. The Tribunal determined to make an Order for possession of the Property in terms of Section 51 of the Act. In terms of section 51 of the Act, the First-tier Tribunal may 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 applies.
14. In Notice to Leave 1 the Applicant stated that they sought recovery of possession of the Property on the basis set out in ground 12 which is that the tenant has been in rent arrears for three or more consecutive months. The Tribunal considered the statements of rent arrears provided and determined that ground 12 had been established.

15. In Notice to Leave 2 the Applicant stated that they sought recovery of possession of the Property on the basis set out in grounds 11 and 14, which are that the tenant has failed to comply with an obligation under the tenancy and that the tenant has engaged in relevant antisocial behaviour.

16. As regards ground 11, the breach complained of was that the Property had been damaged. Clause 17 of the Tenancy Agreement provides that the Respondent is required to take reasonable care of the Property. The evidence lodged with the application in respect of ground 11 was inspection reports dated 6 December 2024; 7 February 2025 and 16 July 2025; copy email referencing calls from neighbours expressing concern about welfare of dogs at the Property in December 2024 and copy messages referencing complaints about dogs at the Property in late 2023 / early 2024 as well as July 2024.

17. Notice to Leave 2 was served on 5 February 2025. The inspection report dated 6 December 2024 referred to smoke damage in the Property and to the condition of the Property being either “unacceptable” or “poor”. It referred to damage to doors and flooring, a strong smell of dog urine and to the walls being dirty throughout. This was evidenced by the photographs in the inspection report. The Tribunal considered the evidence provided and determined that ground 11 had been established.

18. As regards ground 14, subsection 3 of ground 14 states :

*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.*

19. The anti-social behaviour referred to in Notice to Leave 2 was “noise disturbances from dogs at all hours of the day and night, left unattended, which are impacting neighbours and the wider community. Police & Council incident reports.” The evidence lodged with the application in respect of ground 14 was copy messages referencing smashed windows at the Property in July 2024 with copy photographs and a copy statement from a neighbour regarding noise from dogs in the Property and a rock being thrown through their window at midnight on the same evening that windows in the Property were smashed on 30 July 2024. The Tribunal considered the evidence provided. It did not indicate that it was the Respondent who threw the rock into the neighbour’s window. If that evidence was discounted, that left the complaint about noise from the dogs in the Property. It was apparent from the evidence that the dogs left unattended in the Property would cause considerable annoyance to neighbours. The

Tribunal did not however consider that this fell within the definition of relevant anti-social behaviour in ground 14. The Tribunal determined that ground 14 had not been established.

20. In Notice to Leave 3 the Applicant stated that they sought recovery of possession of the Property on the basis set out in grounds 13, which is that the tenant has a relevant conviction.

21. Subsection 3 of ground 13 states :

*A “relevant conviction” means a conviction of an offence – (a) which was committed by using or allowing the use of the let property for an immoral or illegal purpose or (b) which (i) was committed within or in the locality of the let property and (ii) is punishable by imprisonment.*

22. The evidence lodged with the application in respect of ground 13 was a copy online article dated 16 March 2025 referring to the Respondent appearing at Edinburgh Sheriff Court and being banned from driving for 4 years and 10 months. The Tribunal considered the evidence provided and determined that ground 13 had not been established.

23. In Notice to Leave 4 the Applicant stated that they sought recovery of possession of the Property on the basis set out in ground 1 which is that the landlord intends to sell the Property. The evidence lodged with the application in respect of ground 1 was a copy agency agreement entered into between the Applicant and the Applicant’s Representative regarding the sale of the Property. Mr Urquhart had told the Tribunal that he anticipated that a considerable amount of work required to be carried out to the Property before it could be marketed. He could not say how long the works would take until such time as vacant possession was obtained, the state of the Property was assessed and contractors were instructed. In those circumstances he could not be sure that the Property would be marketed within 3 months of the Respondent ceasing to occupy the Property. Mr Urquhart withdrew the application for an order or possession based on ground 1.

24. Having considered all of the circumstances, and in the absence of a submission from the Respondent, the Tribunal determined that it was reasonable to issue an eviction order.

## **Decision**

The Tribunal grants an order for possession of the Property.

## **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.**

**Joan Devine  
Legal Member**

**Date: 12 February 2026**