

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/25/4086

Re: Property at 31A Stratherrick Gardens, Inverness, IV2 4LX (“the Property”)

Parties:

Mr Geoffrey Eastaugh, Cnoc An Torra, North Kessock, Inverness, IV1 3XB (“the Applicant”)

Mr Graeme Dodds, 31A Stratherrick Gardens, Inverness, IV2 4LX (“the Respondent”)

Tribunal Members:

George Clark (Legal Member) and Mary Lyden (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be decided without a Hearing and refused the application.

Background

1. By application, dated 24 September 2025, the Applicant sought an Eviction Order against the Respondent under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016. The Grounds relied on were Grounds 11 and 14 of Schedule 3 to the Act, namely that the Respondent had failed to comply with terms of the tenancy and that he had engaged in relevant anti-social behaviour.
2. The application was accompanied by copies of a Private Residential Tenancy Agreement between the Parties, commencing on 9 February 2018 and a Notice to Leave, dated 21 August 2025, advising the Respondent that the Applicant was seeking an Eviction Order under Grounds 11 and 14 of Schedule 3 to the Act and that an application to the Tribunal for an Eviction Order would not be made before 21 September 2025. The Applicant contended that the Respondent had failed to comply with Clauses 17 and 30 of the tenancy agreement, regarding taking reasonable care of the Property and the responsibility to maintain the garden.

3. The Applicant provided a copy of an unsigned email of 30 April 2025 from an unnamed person, which contained a number of allegations regarding the Respondent's conduct but, as it was anonymous, the Tribunal did not have regard to it. He also submitted a copy of an email of 11 July 2025 from a named neighbour, to his letting agents, in which the occupier of the house which adjoins the Property narrated events of the night before. The smoke alarm in the Property went off in the early hours of the morning, as it had done on several previous occasions. It continued for an hour, so she and a neighbour went to check the welfare of the Respondent. They could smell smoke and phoned 999. The Respondent eventually came to the window but seemed unconcerned that he had fallen asleep while something in the oven was burning. Three fire appliances, Police Scotland and the Scottish Ambulance Service attended the Property. The neighbour's concern was that the whole house could have gone up in flames. The Respondent's actions were seriously impacting others.
4. On 19 March 2026, Inverness Badenoch and Strathspey Citizens Advice Bureau, as representatives of the Respondent, provided written representations on his behalf. They stated that he is a single man, aged 46, employed as a specialist cleaner of machinery. He had suffered a relationship breakdown and mentally his world had collapsed around him. He did not dispute some of the anti-social behaviour referred to, but this stopped after the Fire and Rescue Service had to attend the Property. There had been no further complaints, and the view of his representatives was that this would suggest he was being truthful in his response. They added that they regarded the anonymous email of 30 April 2025 as inadmissible.
5. In relation to Ground 11, the Respondent's position was that he had sought gardening advice and had then pruned the shrubs in the garden. His representatives also raised a concern about an email of 29 August 2025 to him from the letting agents, in which they indicated that he would be better off leaving than being evicted, as an eviction Decision by the Tribunal would become public knowledge and make it very difficult for him to secure alternative accommodation. This had potentially affected his thinking when he was at his most vulnerable. The letting agents had also gained access to the Property on 23 July 2025 without the Respondent's knowledge in what was not an emergency situation.
6. The representatives stated that the Respondent appeared to be an insightful individual who had experienced loss and had demonstrated honesty as to his behaviours, but who appeared to be a somewhat different person to the one he had been in July 2025.
7. On 1 April 2026 the Applicant's representatives responded to the Respondent's submissions. They stated that they had dealt with the Respondent on an ongoing basis for many years and that the Applicant had given him every consideration as a tenant to address his behaviour and his serious rent arrears. Neighbours had also shown concern for his wellbeing on several occasions, but matters reached a climax when the Fire & Rescue Service had to be called.

This had understandably made the adjacent neighbours concerned for their own safety and that of their property. The Applicant had given the Respondent the benefit of the doubt on many occasions. Although he was in employment at the present time and was living quietly, the Applicant had experienced this in the past, and the Respondent had always reverted to his anti-social behaviour. The representatives also disputed his claim that they had entered the Property without permission and provided the Tribunal with a copy of an email of 22 July 2025, in which the Respondent said that it would be hard for him to get a day off “but I am happy for you to enter the property”. Their email which suggested he would be better off leaving was a civil conversation as they knew the Respondent had family support.

First Case Management Discussion

8. A Case Management Discussion was held on the morning of 15 April 2026. The Applicant was represented by Mrs Alice Cochrane of Tughan & Cochrane Ltd, letting agents, Inverness. The Respondent was present and was represented by Ms Alison Marley of Inverness Badenoch and Strathspey Citizens Advice Bureau.
9. Mrs Cochrane confirmed that there had been no record of complaints since July 2025, although she added that they had been here before and also that the neighbours tend to correspond directly with the Applicant. The situation with the Respondent had, however, become progressively worse since 2023/2024, culminating in the incident to which the Fire & Rescue Service were called.
10. Ms Marley advised the Tribunal that the Respondent had very recently lost his job, a zero-hours contract which had lasted for 15 months. He was in the process of seeking a new contract. She stressed that the present action was based on past events for which the Respondent had held his hands up and that there had been no reported issues since July 2025. After that incident, he had delivered letters of apology to all the neighbours. He did not want to obstruct the Applicant carrying out an inspection of the Property and any repair works that might be required.
11. The Respondent told the Tribunal that he had had his flaws and acknowledged that his behaviour had been totally unacceptable. He had lost contact with his new-born child after the relationship breakdown and had had to go through proceedings regarding his two elder children, which had a significant impact on his mental health. It was the most difficult and challenging period of his life and he knew he had not dealt with it well. The best he could do was to get himself in a better place.
12. Ms Marley suggested that the Respondent had attempted to demonstrate that he has tried to turn things around. Ms Cochrane told the Tribunal that neighbours were still nervous, and the Applicant was also concerned that the condition of the Property might be deteriorating.
13. The Tribunal suggested to the Parties that a continuation of the application seemed to be the best way forward. It could not consider an anonymous

statement from a neighbour, and it appeared that the Respondent was making efforts to improve the situation. A continuation would allow the Respondent to demonstrate over a longer period that he had changed his ways and the Applicant's representatives to seek confirmation that there had been no incidents reported directly to the Applicant of which they were unaware.

14. On 29 June 2026, the Applicant provided further written submissions. He sought to add Ground 12 to the application and provided a Rent Statement which showed an erratic pattern of rent payments and that no rent had been paid for April or May 2026. On 16 June 2026 the Applicant paid £475 and on 3 July he paid a further £425. The rent is £740 per month, and the arrears were £1,959.28 as at 3 July 2026.
15. The Applicant repeated earlier submissions in relation to Grounds 11 and 14 and stated that there was reasonable apprehension that the anti-social behaviour engaged in by the Respondent would continue. The smoke alarm had gone off at least twice in March 2026. The Property is semi-detached, and the repeated behaviour presents an unacceptable risk to lives and property at both addresses. It is unreasonable and unfair to expect neighbours to endure these threats, the stress it causes them and the impact it has on their ability to enjoy life and a sense of security in their own homes.
16. The Applicant provided a copy of an email of 16 June 2026 from the owners of the adjoining semi-detached property stating that, at the moment, the Respondent appears to be living quietly but that they have been here before and they suggested that the improved behaviour might be in part due to the upcoming Hearing. They referred to various incidents in the past and added that, whilst the Respondent may have calmed down, they live in constant fear of what might happen next.

Second Case Management Discussion

17. A second Case Management Discussion took place on the morning of 17 July 2026. The Applicant was again represented by Mrs Cochrane. The Respondent was also present and was again represented by Ms Marley.
18. Mrs Cochrane told the Tribunal that there had been a lot of activity at the Property but no further anti-social behaviour. The Applicant, however, still wanted an Eviction Order to be made because this was an ongoing situation, the continued rent arrears (although she accepted that rent arrears were not the main Ground on which eviction was being sought) and the disquiet amongst the neighbours. £700 had been paid on 13 July and it was an odd coincidence that a further £250 had been paid this morning, reducing the arrears to £1,749.28, when nothing at all had been paid between the date of the first Case Management Discussion on 15 April 2026 and 16 June 2026. She stressed that the Applicant is not trying to be vindictive but, apart from the anything else the Respondent is a single man in a 3-bedroom property which he is struggling to afford.

19. Ms Marley confirmed that the rent arrears are acknowledged, but the Respondent now has full-time employment, and the arrears are going down. She had spoken with Highland Council who had told her that the Respondent is due a back payment of bedroom tax for the period in which he was not in earned income. He has also made a Discretionary Housing Payment application and is working with her colleagues to put together a payment plan proposal. It was clear that he is engaging and is trying very hard. He acknowledged that this matter has a long history, but they were trying to prevent a homeless situation so that he could keep moving away from his past. If he were made homeless, he would probably have to give up his employment as he works night shifts. The Applicant seemed to be relying on past conduct, with no issues for more than a year, when the Respondent is trying very hard to stand up on his own two feet. The Respondent himself added that he would like the opportunity to right some wrongs from his past and to get things settled to a position where he could apply to a housing association.

Reasons for Decision

20. 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 all the information and documentation it required to enable it to decide the application without a Hearing.
21. 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 applies.
22. Ground 11 of Schedule 3 to the Act states that it is an Eviction Ground that the tenant has failed to comply with an obligation under the tenancy and the Tribunal may find the Ground applies if the tenant has failed to comply with a term of the tenancy and the Tribunal considers it to be reasonable to issue an Eviction Order on account of that fact.
23. The Tribunal found insufficient evidence to support issuing an Eviction Order under Ground 11. The Applicant did not contest the response of the Respondent that he had sought gardening advice and had then pruned the shrubs in the garden.
24. Ground 12 of Schedule 3 to the Act states that it is an Eviction Ground that the tenant has been in rent arrears for three or more consecutive months and that the Tribunal may find that Ground 12 applies if, at the beginning of the day on which the Tribunal first considers the application for an Eviction Order on its merits, the tenant is in arrears of rent by an amount equal to or greater than the amount which would be payable as one month's rent under the tenancy on that day, and has been in arrears of rent (by any amount) for a continuous period, up to and including that day, of three or more consecutive months, that the Tribunal is satisfied that the tenant's being in arrears of rent over that period is

not wholly or partly a consequence of a delay or failure in the payment of a relevant benefit, and the Tribunal is satisfied that it is reasonable on account of that fact to issue an Eviction Order.

25. The Tribunal noted that the rent has been in arrears for more than three consecutive months and that the current arrears are more than one month's rent. The Tribunal's view, however, was that the Respondent is taking steps to reduce the arrears and that, in those circumstances, it would not be reasonable to issue an Eviction Order based on the current level of rent arrears.
26. Ground 14 of Schedule 3 to the Act provides that it is an eviction ground that the tenant has engaged in relevant anti-social behaviour in relation to another person and the Tribunal is satisfied that it is reasonable to issue an Eviction Order on account of that fact. Both requirements must be met.
27. This was very much at the heart of the application and was the basis of most of the discussion at both Case management Discussions. The fact that anti-social behaviour in relation to neighbours had occurred was not in dispute, but the view of the Tribunal was that, on the basis of all the evidence before it, there had been no such conduct for more than a year and that it appeared that the Respondent was genuinely remorseful and was taking active steps to turn his life around. He is in permanent employment and is engaging with support agencies to sort out his financial situation, including regularising State and other Benefits. He has also reduced the arrears of rent. The Tribunal accepted that, for a period to July 2025, the Respondent had made life for his neighbours very difficult, to the point that there were genuine concerns for their and his safety, but the Tribunal decided that, in all the circumstances, it would not be reasonable at this point to issue an Eviction Order on account of the Respondent's anti-social behaviour, which appeared to have ceased in July 2025.

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.

George Clark

G Clark

Legal Member/Chair

17 July 2026
Date

