



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/26/0075

Re: Property at Dumbarnie Farm Cottage, Dumbarnie, Leven, KY8 6JQ (“the Property”)

Parties:

Balcarres Estate Trust, Balcarres Estate Office, Colinsburgh, KY9 1HJ (“the Applicants”)

Mr Andrew Richardson, Dumbarnie Farm Cottage, Dumbarnie, Leven, KY8 6JQ (“the Respondent”)

Tribunal Members:

George Clark (Legal Member) and Gerard Darroch (Ordinary Member)

Decision

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

Background

1. By application dated 8 January 2026, the Applicants sought an Eviction Order against the Respondent under Section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the Act”). The Ground relied on was Ground 14 of Schedule 3 to the Act, namely that the Respondent has engaged in relevant anti-social behaviour.
2. The Respondents contended that on 17 March 2025, the Respondent used abusive language in an email exchange with Estate office staff. On 11 June 2025, he made a public social media post in which he threatened to “hammer” an Estate representative. On 16 June 2025, he confronted two tenants of an adjacent property, swearing and acting aggressively while carrying a baton. On 22 July 2025, in an email exchange he threatened to blackmail the Estate with unfounded claims. On 28 July 2025 he used racist language in an email

exchange. On 26 August 2025, during a WhatsApp exchange, he used threatening language towards a cattleman, suggesting he would use a knife. On the evening of 1 November 2025, he posted video on social media, followed by additional posts from within one of the Applicants' stock buildings, again directing hostility towards the cattleman.

3. The application was accompanied by copies of a Private Residential Tenancy Agreement between the Parties, commencing on 10 January 2025 and a Notice to Leave, with evidence of service on the Respondent on 10 November 2025, advising the Respondent that the Ground relied on was Ground 14 of Schedule 3 to the Act and that an application to the Tribunal would not be made before 9 December 2025. The Applicants also provided copies and screenshots of a number of emails and messages. They included an email of 6 June 2025 from the Estate office to the Respondent, acknowledging his official complaint received on the previous day regarding noise at the Property and stating that the final date for providing a reply would be 19 June 2025, a Facebook message, in which the Respondent said of the cattleman "if anything happens to me he's No1. If he's here and knifed the law is on my side", an exchange of text messages regarding the incident on 16 June 2025, in which the Respondent said "Did I smack them? Use a baton I had on me?", an email from the Respondent to Mr Wedderburn of 28 July 2025, in which he said: "And you and the Romanian turned up", an email of 14 March 2025 to the Estate office which included the phrase "How the fuck would the Council know where I live. Are you actually sharing my personal information?" and a message on Facebook, stating "In gamekeeper world Guy Wedderburn (sic) is a target. One of us will hammer him soon".
4. On 2 July 2026, the Tribunal advised the Parties of the date and time of a Case Management Discussion, and the Respondent was invited to make written representations by 23 July 2026. This date was extended to 30 July 2026 following a request by a potential legal advisor to the Respondent.
5. On 29 July 2026, the Respondent provided written submissions to the Tribunal. He explained that he had been a tenant on the Estate for 16 years. In November 2024, the Applicants' factor, Mr Wedderburn, and his Romanian secretary inspected the cottage in which he was living and issued a Notice to Quit, as it was not in good repair. He was instructed to leave or to take another cottage on the Estate and had to move to the Property, which is a smaller cottage. He made reference to the condition of the Property, which was not considered by the Tribunal as it was not relevant to the application. In relation to the incident on Friday 16 June 2025, after a long day travelling to deliver fish, strangers appeared outside the Property. He approached them to find out who they were, after which they chatted, and they left. On the following Monday, he received an absolutely horrendous email from the factor, accusing him of being drunk and threatening. He accepted that he was probably intimidating but denied that he was drunk, although low blood sugar might have caused slurring of speech. One of the people he confronted had sent him a message absolutely disputing the factor's accusations. The Respondent said that there had certainly been no baton. Given the tone of the email from the factor and dreading a garage workshop operating through the weekends and late at night, the Respondent

replied to the factor in a way that was supposed to make him realise that the noise was not welcome. A local farmer had posted a message regarding poorly looked after cattle and the Respondent contacted some farmer friends about the problem. The senior cattleman then stopped the Respondent on a single-track road and demanded to know who had told him about the cattle. The situation was so bad, the Respondent had put in an official complaint to the factor regarding his fear and alarm. It was only recently that the factor had emailed him, apologising for the failure to respond to the complaint and explaining that the cattleman was not employed by the Estate. Describing somebody as the Romanian secretary was a statement of fact, not a racist comment.

6. The Respondent referred to a rent increase, but this was not considered further by the Tribunal as it was not relevant to the application.

Case Management Discussion

7. A Case Management Discussion was held by means of a telephone conference call on the morning of 6 August 2026. The Respondents were represented by Mr Guy Wedderburn of CM Solutions, Falkirk. The Respondent was also present.
8. Mr Wedderburn was invited by the Tribunal to comment on the Respondent's written representations. He stated that the decision to serve a Notice to Quit in relation to the previous cottage was to enable the Landlords to carry out major renovations, especially to the private water supply and to replace windows and doors. The Estate had, however, offered the Respondent alternative accommodation and he chose the present Property, one of two available. Mr Wedderburn's understanding of the incident of 16 June 2025 was that the Respondent had been aggressive towards a commercial tenant of a nearby property on the Estate. That tenant had said that he could look after himself and did not want matters escalated, but Mr Wedderburn felt that he had a duty to write to the Respondent to advise him that a complaint had been received. He referred to the fact that the Respondent himself had, in an email, stated that he had a baton.
9. Mr Wedderburn then told the Tribunal that he believed there had been a confrontation between the Respondent and a cattleman, who was employed by another business which had cattle on the Estate. He also contended that the wording of the email regarding his Romanian secretary was racist when viewed from the perspective of someone who had lived experience of racial abuse. The intended purpose was to undermine and harass by using terms which were uncomfortable for a member of staff.
10. The Respondent told the Tribunal that someone had come to him as a trusted confidante regarding the condition of the cattle. The Respondent had then got in touch with the Estate. Four weeks later the cattleman blocked the Respondent in on a single-track road and went absolutely ballistic with him saying he was going to get sorted out. The Respondent complained officially to the Estate but got no response. The message regarding the knife was a warning

to the cattleman to keep away. It was only 5 weeks ago that Mr Wedderburn responded to the complaint, telling him that the cattleman was not an Estate employee. Regarding the incident on 16 June 2025, the Respondent advised the Tribunal that he had returned to the Property after a very long day delivering shellfish around Perthshire. He had a can of beer but was not drunk. Strangers appeared about 8.30pm, making a noise. The Respondent came out of the Property, not knowing whether they were up to criminal activity. When he confronted them, they said they were new tenants. He questioned why they were working at that time of night, and they replied that they did not know if there were any rules about working hours in the commercial units on the Estate. The Respondent then recognised one of them as a local butcher and they had a chat about the price of meat, before leaving. The man he recognised had later sent him a message referring to the fact that they had had a bit of an argument but there was no issue between them. His view was that the Estate had taken the word of two new tenants over that of a tenant who had been there for 16 years.

11. In relation to the message saying of Mr Wedderburn that “one of us will hammer him soon”, the Respondent said that it was merely an opinion in a Facebook post. He accepted that he had stepped out of line and had suggested mediation but that had been refused.
12. In answer to a question from the Tribunal, Mr Wedderburn confirmed that there had been no anti-social behaviour since the date of the application. The Respondent stated that all was now sorted out.
13. The Parties confirmed that they were content for the Tribunal to determine the application on the basis of their written submissions and the evidence presented orally at the Case Management Discussion.

Reasons for Decision

14. 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.
15. 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.
16. Ground 14 states that it is an Eviction Ground that the tenant has engaged in relevant anti-social behaviour. The Tribunal may find that Ground 14 applies if the tenant has behaved in an anti-social manner in relation to another person, and the behaviour is relevant anti-social behaviour. 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, or (b) pursuing in relation to the other person a course of conduct which causes or is likely to cause the other person alarm, distress, nuisance or annoyance, or amounts to harassment of the other person. Anti-social behaviour is “relevant” anti-social behaviour 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.

17. The Tribunal considered first the incident on 16 June 2025. There had been a complaint to the Estate and Mr Wedderburn was perfectly entitled and perhaps duty bound to tell the Respondent that the complaint had been received. The Respondent was also entitled to seek to investigate activity outside his house late in the evening and to confront strangers, but it appeared that they had given an acceptable explanation for their presence and that the incident, which had probably begun aggressively, had passed off peacefully, albeit there was a subsequent report to the Estate. It was an isolated matter involving someone concerned about the safety and security of his property and the Tribunal’s view was that it did not amount to anti-social behaviour.
18. The Tribunal accepted that the use of the words “the Romanian” could, in some contexts, have racist implications, but there was no indication in the present case that the Respondent intended what was a statement of fact to be a racially abusive remark.
19. The incident with the cattleman was not held by the Tribunal to be anti-social behaviour. It appeared that it was the cattleman himself who instigated it after he found out that the Respondent had notified the Estate of concerns regarding cattle welfare. The Respondent’s comment on Facebook could not, however, be condoned, and he should perhaps think very carefully about the tone and language he uses when posting on social media. He accepted that his comment about Mr Wedderburn had overstepped the mark. Mr Wedderburn might have chosen at the time to report it to Police Scotland. The Tribunal regarded it as meeting the test of anti-social behaviour but saw it as a one-off incident which occurred many months ago, so did not of itself justify issuing an Eviction Order. The use of an offensive word in an email to the Estate office, whilst ill-advised, was not directed at any member of staff so did not amount to anti-social behaviour.
20. Having considered very carefully all the evidence, written and oral, before it, the Tribunal determined that the allegations of relevant anti-social behaviour justifying the Tribunal in issuing an Eviction Order should not be upheld. There had been no incidents since November 2025 and, whilst the conduct of the Respondent’ including his use of social media could have been better, it was not such as to persuade the Tribunal to find that he had engaged in relevant anti-social behaviour. The application was, therefore, refused.

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

Legal Member/Chair

6 August 2026
Date