



**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/22/1875**

**Re: Property at 15 Harlow Place, Dundee, DD3 6ST (“the Property”)**

**Parties:**

**Mr Mark Milne, 20A Drumsheugh Gardens, Edinburgh, EH3 7RN (“the Applicant”)**

**Mr Rostyslav Pechonov, 15 Harlow Place, Dundee, DD3 6ST (“the Respondent”)**

**Tribunal Members:**

**George Clark (Legal Member) and Elizabeth Dickson (Ordinary Member)**

**Decision (in absence of the Respondent)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined, following a Hearing, that the application should be granted and issued an Order for Possession of the Property.**

**Background**

1. By application, dated 11 June 2022, the Applicant sought an Eviction Order against the Respondent under Section 51 of the Private Housing (Residential Tenancies) (Scotland) Act 2016 (“the 2016 Act”). The Ground relied on was Ground 14 of Schedule 3 to the 2016 Act, namely that the tenant has engaged in relevant anti-social behaviour.
2. The application was accompanied by copies of a Private Residential Tenancy Agreement between the Parties, commencing on 2 March 2019 at a rent of £260 per month, and a Notice to Leave dated 17 January 2022, with proof of delivery. The Notice to Leave advised the Respondent that the Ground being relied on was Ground 14 and that an application for an Eviction Order would not be made before 18 February 2022.

3. The tenancy agreement in this case was a Shared Tenancy Agreement, whereby the Respondent had exclusive occupation of one of the two bedrooms in the Property and shared use of the kitchen, bathroom, living room, hall and front and back gardens.
4. The Applicant stated that the Respondent had behaved in an anti-social way towards him and a number of individual tenants who had occupied the second bedroom in the Property during the period of the tenancy. He had also behaved in an anti-social way towards a number of neighbours. The pattern of behaviour was playing very loud music often into the early hours of the morning, singing and chanting very loudly, shouting loudly and aggressively, swearing loudly in Russian and in English and loudly speaking to himself. The Applicant provided written statements from 3 former tenants of the other bedroom in the Property and from the occupants of two neighbouring properties. These statements all described anti-social behaviour towards them by the Respondent and indicated a consistent pattern of behaviour as described by the Applicant in the application. All of them stated that they had been distressed and alarmed by the Respondent's behaviour and one neighbour had contacted the police on two specific occasions to complain about the Respondent's behaviour. The Applicant had himself stayed in the second bedroom for a period and had experienced several situations which had caused him to feel intimidated, distressed and scared.
5. On 9 December 2022, 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 30 December 2022. The Respondent did not make any written representations to the Tribunal.

### **Case Management Discussion**

6. A Case Management Discussion was held by means of a telephone conference call on the morning of 11 January 2023. The Applicant was present. The Respondent was not present or represented. The Applicant told the Tribunal that he had had no contact with the Respondent since finding out in June 2022 that he was in prison. He had attended the Property shortly after that, as he was advised to do so by Police Scotland, who had made him aware of there being rotting food in the kitchen and had found that the Respondent had, in his words, "trashed the place". The Applicant did not know if the Respondent is still in prison and had no knowledge of his present whereabouts.

### **Reasons for Decision**

7. 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.

8. The tenancy is a Private Residential Tenancy as defined in Sections 1 and 2 of the 2016 Act. Accordingly, the Tribunal has jurisdiction to determine the application.
9. Ground 14 of Schedule 3 to the 2016 Act 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.
10. The Tribunal noted that, in addition to his own account, the Applicant had provided written statements from a number of former co-tenants of the Respondent and a number of neighbours, all of which described anti-social behaviour towards them by the Respondent, which had caused them alarm, distress, nuisance or annoyance. The Tribunal was satisfied that it was reasonable to issue an Eviction Order as a consequence of it, so it was “relevant” anti-social behaviour as defined in Ground 14.
11. The Tribunal directed that its Decision and the Eviction Order should be intimated to the Respondent by being sent to him at the Property and also by advertisement on the Tribunal website.

## **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

11 January 2023  
Date