



**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/24/2434**

**Re: Property at 12 Barrie Street, Methil, KY8 3BU (“the Property”)**

**Parties:**

**Jess and Jinx Limited, Caledonian House, Links Road, Leven, Fife, KY8 4HS (“the Applicant”)**

**Mr Daniel Hutchinson, Ms Shezell Hodgson, 12 Barrie Street, Methil, KY8 3BU (“the Respondent”)**

**Tribunal Members:**

**Melanie Barbour (Legal Member) and Elaine Munroe (Ordinary Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to grant an order in favour of the Applicant against the Respondent for recovery of possession of the private residential tenancy under grounds 14 of schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016.**

**Background**

1. An application had been received under Rule 109 of the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (“the 2017 Rules”) seeking recovery of possession under a private residential tenancy by the Applicant against the Respondent for the Property.

2. The application contained: -
  - a. the tenancy agreement,
  - b. notice to leave with evidence of service
  - c. section 11 Notice with evidence of service
  - d. photographs of external areas of property and neighbouring property.
  - e. Statements from witnesses
  - f. Two Letters from letting agent to the respondents
  - g. Rent statements
  
3. This case called for a case management discussion on 3 March 2025. In attendance was the applicant's representative, Adam Gardiner, Lindsays LLP. Mr Siwella was an observer. There was no appearance from the respondents. The tribunal was satisfied that service had taken place. It was prepared to proceed in the absence of the respondents.

### Discussion

4. The applicant's agent advised that the applicant was seeking an order for recovery of the possession of the property under the ground 14 (anti-social behaviour).
  
5. The applicant's agent had submitted a written submission with the application and an updated one on 14 February 2025. As of 14 February 2025, the applicant's agent advised that the respondent continued to act in an anti-social manner. They continued to cause disruption and noise which disturbed their neighbours. They referred to the supporting witness statements which had been provided with the application about the nuisance, noise and threats made to the neighbours. The agent advised that the respondents continued to keep the property and its surrounding garden area in a very poor state of cleanliness. The applicant referred to various sets of photographs taken at various times over the last year. These photographs showed various items of rubbish and debris: burnt out shopping trolleys; dog excrement; used sanitary items; bags of rubbish; broken wood; burnt items; the garden area was very unkempt, with long grass and weeds; and general rubbish strewn around the garden.

6. The photographs showed the downstairs house, which now more recently had boarded up windows (which it did not have in the earlier photographs). The original application referred to the downstairs neighbour being an owner occupier who was an 81 year old male. The respondents were said to have harassed and threatened this man. He had complained to them about the noise of their music and their dogs, who were left alone for hours at a time. He had been spat at in the face by one of the respondents. He and his daughter had been threatened by the respondents. They had thrown glass at his house. He had been harassed by the respondents. The respondents had pursued a concerning course of anti-social conduct against this elderly man. He had since left the property in part due to the conduct of the respondents. Someone else who had been staying in the neighbour's property had to leave, as on 1 September 2024 the first respondent attacked the neighbour's property's windows and shattering them. The police had been notified.
  
7. The original application alleged that the respondents had kept 2 dogs in the property who barked continuously. The respondents also played the music very loudly and late at night. Neighbours had asked them to stop they had refused to do so.

*Reasonableness*

8. There had been efforts made to speak to the respondents regarding their conduct without success. The local council had been involved in speaking to the respondents and trying to work with them to bring standards in the property up, these efforts had been unsuccessful. The letting agents had also written to the respondents about their conduct.
  
9. Agents advised that the respondents did not have any dependents in the property.

10. Agents also advised that the rent arrears were a further issue in relation to reasonableness as the outstanding rent arrears were now in excess of £7,500.

### Findings in Fact

11. The Tribunal found the following facts established: -

12. There existed a private residential tenancy. It had commenced on 4 September 2023.

13. The tenants were Daniel Hutchison and Shezell Hodgson.

14. The landlords were Jess & Jinx Ltd.

15. The property was 12 Barrie Street, Methil.

16. Condition 7 of the tenancy provides that rent was £550 a calendar month payable in arrears. The rent had increased to £593.83 in around May 2024.

17. There was a rent statement showing that the arrears had occurred.

18. Rent arrears as of 3 March 2025 were £7,540.33.

19. The respondents had caused excessive noise since around 4th September 2023 by playing music at excessive levels for extended periods during antisocial hours.

20. The respondents own 2XL bully dogs. The respondents allowed their dogs to defecate on their neighbours' gardens on a regular basis and failed to clear up the mess.

21. The respondents left their dogs for hours on end in the property and their dogs barked continuously causing nuisance and disturbance to their neighbours. The respondents refused to take any action to address this nuisance.
22. Between September 2023 and March 2024, the respondents repeatedly set alight to various items and materials in the rear garden of the property. Burnt items included an abandoned shopping trolley, household furniture and wood. These incidents caused alarm and distress to their neighbours.
23. Throughout the tenure of their tenancy, the respondents continued to leave the property and its surrounding garden area in a very poor state of cleanliness. The respondents left various items of rubbish and debris in the garden area, including burnt out shopping trolleys; dog excrement; used sanitary items; bags of rubbish; broken wood; burnt items; the garden area was very unkempt, with long grass and weeds; and general rubbish strewn around the garden.
24. The first respondent assaulted a neighbour on the 8th of March 2024 by spitting in the neighbour's face. The first respondent also shouted verbal abuse at the neighbour through his window. The neighbour was an 81 year old male. The respondents have banged on the neighbour's windows. They have placed items in the garden restricting his access to his rear garden. The respondents have pursued a course of anti-social behaviour against the neighbour.
25. The respondents have shouted and verbally assaulted people visiting neighbours; and also, to other persons working in a local shop and a bank.
26. The respondents have thrown glass bottles at the neighbour's property.
27. In September 2024 the respondents' smashed the downstairs neighbour's windows. The person residing there at that time has fled the property. The downstairs property is currently boarded up.

28. The Fife Council Safer Communities Team have attempted to work with the respondents to reduce their anti-social behaviour. This work has been unsuccessful.
29. The applicants' letting agent have written to the respondents warning them about their anti-social behaviour.
30. The respondents reside in the property alone. There are no dependents.
31. There was submitted a notice to leave dated 12 March 2024, stating that an application would not be made until 12 April 2024. It sought eviction under ground 14 breach of tenancy agreement. It set out that the respondent had acted in an antisocial manner. The notice to leave had been sent to the tenants. There was evidence of service.
32. A section 11 notice had been sent to the local authority advising that the landlord was seeking possession of the property. There was evidence of service.
33. The respondents engaged in relevant anti-social behaviour. They acted on more than one occasion in such a way as to cause other persons alarm, distress nuisance and annoyance.
34. The application was made on 24 May 2024.

### Reasons for Decision

35. Section 51 of the 2016 Act provides the Tribunal with the power to grant an order for eviction for a private residential tenancy if it finds that one of the grounds in Schedule 3 of the Act applies.
36. The ground which the Applicant seeks eviction is ground 14:-

*Anti-social behaviour*

*14(1) It is an eviction ground that the tenant has engaged in relevant anti-social behaviour.*

*(2) The First-tier Tribunal may find that the ground named by sub-paragraph (1) applies if—*

*(a) the tenant has behaved in an anti-social manner in relation to another person,*

*(b) the anti-social behaviour is relevant anti-social behaviour,*

*[F36(ba) the Tribunal is satisfied that it is reasonable to issue an eviction order on account of that fact, and]*

*(c) either—*

*(i) the application for an eviction order that is before the Tribunal was made within 12 months of the anti-social behaviour occurring, or*

*(ii) the Tribunal is satisfied that the landlord has a reasonable excuse for not making the application within that period.*

*(3) 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,*

*(b) pursuing in relation to the other person a course of conduct which—*

*(i) causes or is likely to cause the other person alarm, distress, nuisance or annoyance, or*

*(ii) amounts to harassment of the other person.*

*(4) In sub-paragraph (3)—*

*“conduct” includes speech,*

*“course of conduct” means conduct on two or more occasions,*

*“harassment” is to be construed in accordance with section 8 of the Protection from Harassment Act 1997.*

*(5) Anti-social behaviour is relevant anti-social behaviour for the purpose of sub-paragraph (2)(b) 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.*

*(6) In a case where two or more persons jointly are the tenant under a tenancy, the reference in sub-paragraph (2) to the tenant is to any one of those persons.*

37. The applicant’s agent confirmed that they sought an order for eviction based on ground 14.

38. In terms of ground 14 the agent had supplied numerous photographs showing the condition of the property. The pictures clearly showed a very dirty garden area. It was strewn with rubbish, burnt out items; dog excrement; and used hygiene productions. It appeared to be unhygienic. There was broken fencing. There was broken glass lying around. Outside the door of the property were bags of rubbish piled up. The agent advised that neighbours had complained about the mess. Of note the respondents refused to clean up after their dogs which fouled on a daily basis in neighbours’ gardens. There was also evidence that the respondent had regularly played music loudly, for hours at a time and during antisocial; hours, this had caused nuisance and distress to their neighbours. The care of their dogs also led to nuisance and distress to neighbours, with the dogs being left for hours at a time in the property barking continuously.



39. In addition, the respondents appeared to have pursued a course of conduct against their elderly neighbour. This included spitting in his face, restricting the man's access to his garden, threatening him and his daughters, and smashing windows in the neighbour's property. His daughter and an employee of Fife Council provided statements supporting aspects of this behaviour. It would have been clearly distressing to this elderly gentleman to have been exposed to such behaviour.

40. There was nothing which we heard in mitigation about the conduct of the respondents. They had had agency involvement to try and bring property standards up. This had been unsuccessful. They had no dependents in the property. It appeared to the tribunal that the respondents had acted in an anti-social manner, and it had taken place over a course of time, it would have caused clear distress and anxiety to the neighbours, especially the elderly neighbour who lived beneath them. It was very concerning that the elderly neighbours' property's windows were now boarded up, when the early photographs of that property, showed a well maintained lower flat, with a tidy garden area.

41. The behaviour has clearly caused a nuisance and annoyance to other residents in the area around the property. We consider the behaviour to be relevant anti-social behaviour. We find the first part of this ground established.

42. Given we find the first part of the ground met the tribunal is therefore required to proceed to consider if it would be reasonable to grant the order under ground 14. We find it would be reasonable to grant the order for eviction. As we have already mentioned, we find no mitigating factors for the respondents. We consider that the anti-social behaviour to be sufficiently serious, and to have occurred for most, if not all, of the tenure of the tenancy then we consider it would be reasonable to grant this order. While we note that much of the behaviour appears to have been aimed at the elderly gentleman who lived downstairs and we are aware that he has now left the property, we still place

weight on what had happened to him. We also place weight on the fact that the next person who stayed in the downstairs property had to flee it when the windows were smashed. We also place weight on the size of the rent arrears which are significant, as another factor why it would be reasonable to grant the order. In addition, the condition of the external garden area, the dog fouling in the community and the threats to other third parties in the community all lead us to further conclude that it would be reasonable to grant the order.

43. Accordingly, considering the papers before us and the oral submission by the applicant's agent the tribunal was prepared to grant the order for recovery of possession, given that the first part of ground 14 was met and in all the circumstances it appeared to us to be reasonable to grant the order.

#### Decision

44. The Tribunal grants an order in favour of the Applicant against the Respondent for recovery of possession of the private residential tenancy under ground 14 of schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016.

#### **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.**

Melanie Barbour

03 March 2025

Legal Member/Chair

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Date

