



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/26/2118

Re: Property at Flat 15, Thistle House, 34 Baron Taylor Street, Inverness, IV1 1QG (“the Property”)

Parties:

Highland Homeless Trust Limited, 57 Church Street, Inverness, IV1 1DR (“the Applicant”)

Mr Spencer McInnes, Flat 15, Thistle House, 34 Baron Taylor Street, Inverness, IV1 1QG (“the Respondent”)

Tribunal Members:

Martin McAllister (Legal Member) and Elizabeth Williams (Ordinary Member)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application be granted and that an eviction order be granted.

Background

1. On 12 May 2026, the Applicant submitted an application to the First-tier Tribunal for Scotland seeking an order of eviction.
2. On 28 May 2026, the application was accepted for determination by the Tribunal.
3. A case management discussion was held by teleconference on 15 July 2026.

The case management discussion

4. Ms Claire Mullan, solicitor was present and represented the Applicant.

5. There was no appearance by the Respondent. The tribunal had a copy of a Sheriff Officer's certificate of service and was satisfied that the details of the case management discussion had been intimated to the Respondent on 11 June 2026. In the circumstances, the tribunal proceeded with the case management discussion.
6. Ms Mullan invited the tribunal to determine the matter without a Hearing and to issue an eviction order under Rule 101 of the Tribunal Rules on the basis that the conditions set out in Grounds 11 and 14, Part 3 of Schedule 3 of the 2016 Act have been met.

7. Findings in Fact

- (i) The Applicant and the Respondent entered into a private residential tenancy agreement in respect of the Property on 20 April 2023.
- (ii) The tenancy commenced on 17 April 2023.
- (iii) The weekly rent due under the private residential tenancy is £340.
- (iv) On 12 January 2026, the Respondent was convicted of assaulting an individual employed by the Applicant and, on 9 April 2026, was sentenced to eight months imprisonment.
- (v) The Respondent has threatened members of staff who are employed by the Applicant.
- (vi) The Respondent has made sexually inappropriate remarks to employees of the Applicant.
- (vii) The Respondent has behaved in an antisocial manner towards individuals employed by the Applicant.
- (viii) The Respondent has caused damage to the Property.

8. Findings in Fact and Law

- (i) The Respondent has engaged in antisocial behaviour towards individuals and has breached the tenancy agreement in relation to the Property
- (ii) It is reasonable to grant the order of eviction.

9. Documents before Tribunal

- (i) Private residential tenancy agreement dated 20 April 2023.
- (ii) Copy Notice to Leave dated 20 January 2026.
- (iii) Copy notice under Section 11 of the Homelessness Etc (Scotland) Act 2003 which had been sent to the local authority.
- (iv) Precognitions of four employees of the Applicant.
- (v) Extract conviction.
- (vi) Photographs of internal parts of the Property.

10. The Law

Section 51 of the 2016 Act:

First-tier Tribunal's power to issue an eviction order

(1) The First-tier 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.

(2) The provisions of schedule 3 stating the circumstances in which the Tribunal may find that an eviction ground applies are exhaustive of the circumstances in which the Tribunal is entitled to find that the ground in question applies.

(3) The Tribunal must state in an eviction order the eviction ground, or grounds, on the basis of which it is issuing the order.

(4) An eviction order brings a tenancy which is a private residential tenancy to an end on the day specified by the Tribunal in the order.

Ground 11, Part 3 of Schedule 3 of the 2016 Act

Breach of tenancy agreement

11(1) It is an eviction ground that the tenant has failed to comply with an obligation under the tenancy.

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

(a) the tenant has failed to comply with a term of the tenancy, and

(b) the Tribunal considers it to be reasonable to issue an eviction order on account of that fact.

(3) The reference in sub-paragraph (2) to a term of the tenancy does not include the term under which the tenant is required to pay rent.

Ground 14, Part 3 of Schedule 3 of the 2016 Act

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,*

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.

Applicant's position

11. Ms Mullan said that the Respondent is a tenant of the Property which is a self-contained flat. It is contained within Thistle House which has fifteen flats and the Applicant has members of staff who are based in the building and they provide twenty four hour support to the residents. She said that the Applicant provides housing for people who are homeless and who require support.
12. Ms Mullan referred the tribunal to the private residential tenancy agreement which detailed that the Respondent had access to a shared bathroom, support room and laundry.
13. Ms Mullan said that over a period of time, the Respondent had behaved in an inappropriate manner towards members of staff. She referred to four precognitions which had been provided by staff members and which had been submitted with the application. Ms Mullan said that the precognitions demonstrate that staff members felt intimidated and threatened by the Respondent who had made sexually inappropriate remarks, threatened to rape and assault members of staff and threatened to injure family members of staff.
14. Ms Mullan said that on 7 June 2025, the Respondent threw a cup of hot coffee at a member of the Applicant's staff and it hit them.
15. Ms Mullan said that on 11 January 2026, the Respondent threw a glass at the head of a member of the Applicant's staff.
16. Ms Mullan said that, as a consequence of the assault on 11 January 2026, the Respondent was convicted on 12 January 2026 and was sentenced to eight months imprisonment on 9 April 2026. She referred to the extract conviction which had been submitted.
17. The tribunal was referred to a document submitted with the application and which disclosed that, between conviction and sentencing, the Respondent had a special bail condition imposed on him which prevented him approaching a named member of staff.
18. Ms Mullan said that forty three incidents of anti-social behaviour had been logged by the Applicant and she referred the tribunal to the paper apart which had been submitted with the application, and the terms of the precognitions.
19. Ms Mullan referred to paragraph 21 of the private residential tenancy agreement which states that *"the Tenantmust not engage in antisocial behaviour to another person. A person includes anyone in the Let Property, a neighbour, visitor, the landlord and employee of the landlord....."* She said that the Respondent had failed to comply with his obligations in relation to paragraph 21 of the tenancy agreement.

Reasons for Decision on the grounds for eviction

20. The tribunal saw no reason for determination of the application to be continued to a Hearing. It considered that it had sufficient information before it to make a decision.
21. The tribunal was satisfied that the Notice to Leave was in appropriate terms and had been served on the Respondent. The tribunal was satisfied that the appropriate notice had been served on the local authority under the Homelessness etc (Scotland) Act 2003.
22. The tribunal accepted the information contained in the four precognitions which had been submitted. These showed that the Respondent engaged in antisocial behaviour, particularly towards members of the Applicant's staff. The tribunal considered it significant that a special bail condition imposed on the Respondent was that he was not to approach a named member of the Applicant's staff. The information in the precognitions and the extract conviction was consistent and compelling evidence that the Respondent had failed to comply with paragraph 23 of the private residential tenancy agreement.
23. In relation to Ground 14, the tribunal was satisfied that the incidents of antisocial behaviour detailed in the precognitions and the incident leading to the conviction occurred within twelve months of the application being submitted to the Tribunal. The tribunal was satisfied that the behaviour of the Respondent was such as to cause alarm and distress to the individuals who were exposed to it.
24. The tribunal was satisfied that the necessary thresholds for Grounds 11 and 14 had been crossed.

Reasonableness

25. The tribunal required to consider whether or not the granting of an order of eviction was reasonable. It is a matter of judicial discretion and, in considering reasonableness a balancing exercise requires to be undertaken.
26. The Respondent had not engaged with the Tribunal process and nothing was therefore known about his particular circumstances. Ms Mullan said that the Respondent is the sole occupier of the Property and is 53 years old.
27. Ms Mullan said that the Respondent had been released from prison on 29 May 2026 and had returned to the Property. She said that he had damaged fittings of the Property which are owned by the Applicant and had been charged with criminal damage. She referred the tribunal to the photographs which she had submitted and which showed this damage.

28. Ms Mullan submitted that it would not be reasonable to allow the Respondent to continue to occupy the Property. She said the nature of his antisocial behaviour had been such that members of the Applicant's staff are justifiably concerned about the Respondent continuing to live in the Property.

Decision on Reasonableness

29. The tribunal balanced the respective position of the Applicant and the Respondent. The Respondent had been convicted of assaulting a support worker employed by the Applicant. There had also been numerous incidents of antisocial behaviour. In these circumstances, it was not reasonable for the tenancy to continue. In support of this approach, was the fact that, on returning to the Property after his release from prison, the Respondent had damaged internal fittings of the Property. The tribunal determined that it was reasonable to grant the order of eviction.

Submission on Period of Charge

30. Ms Mullan referred to a written submission which had been made on behalf of the Applicant. She said that the Applicant was seeking to have the period of charge dispensed with or varied to be 48 hours. The tribunal was referred to Section 216 (4) of the Bankruptcy and Diligence etc. (Scotland) Act 2007 ("the 2007 Act") and Rule 41 (c) of the Tribunal Rules.
31. Ms Mullan referred the tribunal to the explanatory notes attached to the 2007 Act. These state *inter alia* that one of the factors the Tribunal could have regard to in determining whether the fourteen days period of charge be reduced or dispensed with is whether a landlord was able to satisfy it that there was a serious risk of damage to the let property. The tribunal noted that the Respondent had already caused damage to the Property after his release from prison and determined that, in terms of Section 216 (4) of the 2007 Act, the period of charge should be dispensed with.

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.

**Martin J. McAllister
Legal Member
15 July 2026**