



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 (“the 2016 Act”)

Chamber Ref: FTS/HPC/EV/25/5541

Re: Property at G/2 63 High Street, Lochee, Dundee, DD2 3AT (“the Property”)

Parties:

Area Estates Ltd, India Buildings, 86 Bell Street, Dundee, DD1 1HN (“the Applicant”)

Ms Tanya McCartney, G/2 63 High Street, Lochee, Dundee, DD2 3AT (“the Respondent”)

Tribunal Members:

Ruth O'Hare (Legal Member) and Helen Barclay (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the provisions of paragraph 14 of schedule 3 of the 2016 Act are met in this case.

The Tribunal therefore made an eviction order under section 51 of the 2016 Act.

In terms of section 54(1) of the 2016 Act, the private residential tenancy between the parties will end on 8 August 2026.

Background

- 1 This is an application for an eviction order under rule 109 of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure 2017 (“the Rules”) and section 51 of the 2016 Act. The Applicant relied upon ground 14 as the ground for eviction, stating that the Respondent had engaged in anti-social behaviour.
- 2 The application was accepted and referred to a tribunal for determination. A case management discussion was scheduled to take place on 8 July 2026 by

teleconference. The Tribunal gave notice of the CMD to the parties in accordance with rule 17(2) of the Rules. Said notice was served upon the Respondent by sheriff officers on 5 June 2026 and required her to make written representations in response to the application no later than 22 June 2026.

- 3 No written representations were received from the Respondent in advance of the CMD.

The CMD

- 4 The CMD took place by teleconference on 8 July 2026 at 2pm. Mr Ritchie McNeil, Solicitor of MML Law, represented the Applicant. The Respondent did not join the call. The tribunal noted that she had been given notice of the CMD and had not provided any explanation for her failure to attend. The tribunal further noted that she had been advised that the tribunal may do anything at the CMD that it may do at a hearing, including reaching a decision on the application. The tribunal therefore delayed the start time of the CMD for a short period before determining to proceed in her absence.
- 5 The tribunal had the following documents before it:-
 - (i) Form E application form and supporting documents including private residential tenancy agreement between the parties, notice to leave and proof of delivery to the Respondent by email, notice under section 11 of the Homelessness etc (Scotland) Act 2003 ("section 11 notice") and proof of delivery to the local authority, and evidence in support of the eviction ground in the form of photographs and emails.
 - (ii) Land certificate confirming the Applicant's ownership of the property and proof of the Applicant's landlord registration.
- 6 The tribunal heard submissions from Mr McNeil on the application. The following is a summary of the key elements of the submissions.
- 7 Mr McNeil sought an eviction order based on ground 14, the Respondent's antisocial behaviour. When the application was made the behaviour was primarily graffiti in the property and the communal hall. The graffiti contained profanities against others, including the owners of the Applicant's letting agent. It was behaviour likely to cause alarm, distress, nuisance and annoyance. Mr McNeil explained that there were children residing in the block. The Respondent had admitted she was responsible for the graffiti. Following the submission of the application to the Tribunal, the Respondent's behaviour has escalated to threats towards others, including threatening to set the building on fire, and defecating in the communal hall. The police have been involved on occasion, and the Respondent was recently arrested but has since returned to the property. The Respondent is the sole occupant of the property. Mr McNeil believes she is middle-aged. She makes content for YouTube. Mr McNeil confirmed that the Respondent has a level of support in place from the local

authority, including a mental health worker. The local authority is now aware of the Tribunal proceedings.

- 8 The tribunal adjourned the CMD to deliberate, at which point parties left the call, before resuming the proceedings and confirming the outcome.

Findings in fact

- 9 The Applicant is the owner and landlord, and the Respondent is the tenant, of the property in terms of a private residential tenancy agreement, which commenced on 1 September 2025.
- 10 The Applicant has given the Respondent a notice to leave within the meaning of section 62 of the 2016 Act. The notice to leave includes ground 14. The notice was sent to the Respondent by email on 18 November 2025. The Respondent consented to the delivery of notices by email under the terms of the tenancy agreement between the parties.
- 11 The Applicant gave the local authority a section 11 notice at the time of making this application.
- 12 The Respondent has engaged in anti-social behaviour at, and in the vicinity of, the property on two or more occasions. The Respondent has behaved in an anti-social manner in relation to other persons, namely towards neighbours and the owners of the Applicant's letting agent. In particular, the Respondent has graffitied profanities aimed at others in the communal stairwell at the building, and within the property. She has made threats towards others, including fire raising, and has behaved in an intimidating manner towards others in the building. She has repeatedly defecated in the communal stairwell. The Respondent has been subject to police arrest because of her conduct.
- 13 The Respondent's behaviour has caused, or is likely to cause, alarm, distress, nuisance and annoyance.
- 14 The Respondent's behaviour constitutes relevant antisocial behaviour for the purpose of paragraph 14(1) of schedule 3 of the 2016 Act.
- 15 The Respondent resides alone at the property. The Respondent is believed to be middle-aged.
- 16 The Respondent has support in place from the local authority in the form of a mental health worker.
- 17 It is reasonable to make an eviction order.

Reasons for decision

- 18 The tribunal was satisfied it had sufficient information to reach a decision on the application in terms of the documentary evidence and oral submissions from

the parties. The Respondent had not sought to oppose the eviction order and had not submitted any evidence to contradict the terms of the application. As such, the tribunal considered it could proceed to a decision in the absence of a hearing and that to do so would not be contrary to the interests of the parties.

- 19 Section 51 of the 2016 Act provides that *“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.”*
- 20 Section 52 of the 2016 Act goes on to state that *“an application for an eviction order against a tenant must be accompanied by a copy of a notice to leave which has been given to the tenant.”* The tribunal had before it a copy of a notice to leave in the prescribed form that had been given to the Respondent which cites ground 14 of schedule 3 of the 2016 Act. The tribunal was also satisfied that the Applicant had sent a section 11 notice to the local authority in accordance with the requirements of section 56 of the 2016 Act.
- 21 The tribunal considered the wording of ground 14 of schedule 3 of the 2016 Act:-

“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,

[(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.”

- 22 The tribunal accepted that paragraphs 2(a), (b) and (c) have been established by the Applicant in this case. The tribunal had before it evidence of the Respondent's anti-social behaviour in the form of photographs, emails and the oral submissions from Mr MacNeil at the CMD. It was clear that the behaviour perpetrated by the Applicant has caused, and continues to cause, others alarm and distress. The first incidents of anti-social behaviour occurred within the last twelve months, with the tenancy commencing relatively recently in September 2025.
- 23 The tribunal considered whether it would be reasonable to make an eviction order as a consequence of the nature of the Respondent's anti-social behaviour. The incidents narrated by Mr MacNeil which transpired both before and following the making of the application are serious, involving threatening and intimidating behaviour towards others. They have occurred at, or in the vicinity of the property, and have been directed towards persons residing in close proximity as well as representatives of the Applicant. The Respondent's conduct has on occasion required police intervention. The tribunal therefore determined that paragraph 5 has been established in that the Respondent has engaged in relevant anti-social behaviour, and it would be reasonable for an eviction order to be granted as a consequence of that behaviour.
- 24 The tribunal considered whether there were any other relevant factors in terms of reasonableness that would weigh against the making of an eviction order in accordance with paragraph 2(ba). The information the tribunal had regarding the Respondent's circumstances was limited as the Respondent had not participated in the proceedings. The tribunal did however accept Mr McNeil's submissions on this point, there being no evidence to the contrary. The tribunal took into account the fact that the Respondent lives in the property alone. There are no children residing in the property who would be at risk of eviction. Whilst there is an indication that the Respondent may suffer from mental health issues by virtue of her having a mental health worker, the tribunal had no evidence as to the nature and extent of the issues, nor how it may impact on her behaviour. The tribunal also noted that the Respondent has support in place from the local authority, and the tribunal could reasonably assume that the local authority would be able to provide her with advice and assistance if an eviction order is made.
- 25 Accordingly, regarding reasonableness, the tribunal determined that the balance weighed in favour of making an eviction order and that paragraph 2(ba) had been met.

26 The tribunal therefore concluded that the provisions of paragraph 14 of schedule 3 of the 2016 Act had been established and determined to make an eviction order.

27 The decision of the tribunal was unanimous.

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.

Ruth O'Hare

8 July 2026

Legal Member/Chair

Date