

**Housing and Property Chamber**  
First-tier Tribunal for Scotland



**DECISION AND STATEMENT OF REASONS OF DAVID BARTOS LEGAL MEMBER OF THE  
FIRST-TIER TRIBUNAL WITH DELEGATED POWERS OF THE CHAMBER PRESIDENT**

Under Rules 5 and 8 of the First-tier Tribunal for Scotland Housing and Property  
Chamber Rules of Procedure 2017 ("the Procedural Rules")

in connection with

12 Holly Grove, Bellshill Lanarkshire, ML4 1EG

**Case Reference: FTS/HPC/EV/19/3122**

**STONEVILLE INVESTMENTS LIMITED, 62 Main Street, Oakham, Rutland LE15 9LT ("the  
Applicant")**

Represented by Rhona McCaughey, Love Homes Motherwell Limited, 166 Merry Street,  
Motherwell ML1 1NA

**LISA ELLEN CRILLY, 12 Holly Grove, Bellshill, Lanarkshire ML4 1EG ("the Respondent")**

**BACKGROUND**

1. On 2 October 2019 the Applicant's Representative lodged an application for eviction of the Respondent from the property 12 Holly Grove, Bellshill Lanarkshire, ML4 1EG 7PN ('the property'). The application was made in terms of section 51 of the Private Housing (Tenancies) (Scotland) Act 2016. The application was based on ground 4 (landlord intends to live in the property). In the Representative's e-mail to the Tribunal dated 30 October 2019 she stated that the 'Landlord's mother' would be returning to

reside at the property on a permanent basis to be cared for by immediate family members who live nearby.

## DECISION

2. For the reasons given below this application is rejected.

## REASONS FOR DECISION

3. I considered the application in terms of Rule 8 of the Procedural Rules. That Rule provides:-

*"Rejection of application*

*8.—(1) The Chamber President or another member of the First-tier Tribunal under the delegated powers of the Chamber President, must reject an application if –*

*(a) they consider that the application is frivolous or vexatious;*

*(b) the dispute to which the application relates has been resolved;*

*(c) they have good reason to believe that it would not be appropriate to accept the application;*

*(d) they consider that the application is being made for a purpose other than a purpose specified in the application; . . .*

*(2) Where the Chamber President, or another member of the First-tier Tribunal, under the delegated powers of the Chamber President, makes a decision under paragraph (1) to reject an application the First-tier Tribunal must notify the applicant and the notification must state the reason for the decision."*

4. For the purposes of this rule the word 'frivolous' does not have its ordinary day-to-day meaning. What 'frivolous' means for the purposes of rules of legal procedure was defined by Lord Justice Bingham in the case *R v North West Suffolk (Mildenhall) Magistrates Court*, (1998) Env. L.R. 9 when he stated at page 16:- *"What the expression means in this context is, in my view, that the court considers the application to be futile, misconceived, hopeless or academic"*.

5. The application was made under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016. Section 51 requires the Tribunal to be satisfied that one of the eviction grounds in schedule 3 to the Act applies.
  6. The eviction ground founded on in the application was ground 4. That ground states:  
'(1) It is an eviction ground that the landlord intends to live in the let property.'  
There has also been mention of ground 5. That ground states:  
'(1) It is an eviction ground that a member of the landlord's family intends to live in the let property.'
- Ground 5 also defines who is a member of the 'landlord's family' for the purpose of eviction.
7. It is plain from both grounds 4 and 5 that they apply to landlords that are natural living persons. The Applicant is not a natural living person. It is a legal person in the shape of a limited company which is a legal person separate from its shareholders or directors. It follows that the Applicant cannot live in the property. Nor can the Applicant have a family.
  8. In these circumstances I take the view that the Tribunal cannot be satisfied that the eviction grounds founded on, namely grounds 4 or 5 apply in the present case. In those circumstances the current application is misconceived and doomed to fail.
  9. Accordingly, for these reasons, this application must be rejected upon the basis that the application is 'frivolous' in its legal meaning for the purposes of rule 8(1)(a) of the Procedural Rules. In addition under rule 8(1)(b) and on the same basis I have good reason to believe that it would not be appropriate to accept this application and send it to a case management discussion for further consideration. The application must therefore be rejected.

### **What you should do now**

If you disagree with this decision:-

An applicant aggrieved by the decision of the Chamber President, or any Legal Member acting under delegated powers, 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. Information about the appeal procedure can be forwarded to you on request.

David Bartos

David Bartos  
Legal Member acting under delegated powers  
11 November 2019