

Housing and Property Chamber
First-tier Tribunal for Scotland



**DECISION AND STATEMENT OF REASONS OF ALISON KELLY, LEGAL MEMBER OF
THE FIRST-TIER TRIBUNAL WITH DELEGATED POWERS OF THE CHAMBER PRESIDENT**

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

in connection with

9 Boydstone Place, Glasgow, G46 8LB

Case Reference: FTS/HPC/EV/18/1136

MR Mohammed Ahmed ("the Applicant")

Ms Rosiland Cook ("the Respondent")

The Application was lodged under Rule 56 of the Chamber Procedural Rules on 8th May 2018, being an application by a private landlord for possession on termination of a Short Assured Tenancy. The following documents were enclosed with the Application:

- (i) Tenancy Agreement
- (ii) Copy AT5
- (iii) Copy section 33 (1)(d) Notice
- (iv) Notice To Quit
- (v) Copy of Notice given to the local authority
- (vi) Section 11 Notice
- (vii) Letter of Authority of Applicant

The property was let to the Respondent by the Applicant under a Short Assured tenancy Agreement dated 29th March 2016. The term of the lease is for “6 months commencing on 29th March 2016, the lease will become month to month after 6 months”.

In the Part 5 of the Application the Applicant states his Possession/Eviction grounds as Grounds 8, 11 and 12 of Schedule 5 of the Housing (Scotland) Act 1988.

The Form AT6, the notice required to be served before proceedings for possession can be entertained in terms of section 19 of the Housing (Scotland) Act 1988, is dated 9th June 2017 and states that proceedings will not be raised before 9th August 2017.

DECISION

I considered the application in terms of Rule 8 of the Chamber 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; or

(e) the applicant has previously made an identical or substantially similar application and in the opinion of the Chamber President or another member of the First-tier Tribunal, under the delegated powers of the Chamber President, there has been no significant change in any material considerations since the identical or substantially similar application was determined.

(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. "

- 2 After consideration of the application and supporting documentation, I consider that the application should be rejected on the basis that it is not appropriate to accept it in terms of Rule 8(1) (c) of the Procedural Rules.

REASONS FOR DECISION

The Applicant is attempting to proceed on grounds 8, 11 and 12 of Schedule 5 of the Housing (Scotland) Act 1988. The Form AT6, the notice required to be served before proceedings for possession can be entertained in terms of section 19 of the Housing (Scotland) Act 1988, is dated 9th June 2017 and states that proceedings will not be raised before 9th August 2017. Section 19(7) of the Housing (Scotland) Act 1988 states that:

“a notice under this section shall cease to have effect 6 months after the date on or after which the proceedings for possession to which it relates could have been raised.”

The AT6 has expired and cannot be used as a basis for this action.

Although not included in Part 5 of the Application the Applicant has also served a Notice to Quit and a section 33 Notice. Unfortunately these do not bring the tenancy to an end at an ish date and are therefore also invalid.

For these reasons I am rejecting the Application.

What you should do now

If you accept the Legal Member's decision, there is no need to reply.

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.

A Kelly

Miss Alison Kelly
Legal Member
21st May 2018

