



**Decision with Statement of Reasons of Karen Moore, Legal Member of the First-tier Tribunal with delegated powers of the Chamber President of the First-tier Tribunal for Scotland (Housing and Property Chamber), under Rule 8 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”)**

**Case reference FTS/HPC/EV/23/3216 and 3218**

## **Parties**

**Mrs Uzma Shahazadi (Applicant)**

**Mr David Thomson, Mrs Donna Thomson (Respondent)**

**GPS Glasgow (Applicant’s Representative)**

**2-2, 5 Ardnahoe Avenue, Glasgow, G42 0DF (House)**

## **Decision**

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be dismissed on the basis that it would not be appropriate to accept the application in terms of Rule 8(1)(c).

## **Background**

1. The applications were received by the Tribunal under Rules 66 and 77 on 13 September 2023.
2. The application was considered by the Tribunal and further information in respect of the legal basis for the application was requested on 10 October 2023 as follows:  
*“You have lodged the application showing applicant as Mrs Uzma Shahazadi. You indicate that she is the executor of the landlord Mohammed Saddique. Please provide evidence that she has been appointed executor by producing the relevant document of Confirmation to Mr Siddique’s estate granted by the relevant sheriff court. Please provide evidence of service of all relevant notices (notice to quit, form AT6 and Section 33 notice) individually upon each of the joint tenants. Please confirm the method of service, the date of service and provide evidence of delivery. In the application form you have ticked two boxes indicating you wish the application to proceed under rules 66 and rule 77 of First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017,. Rule 77 relates to regulated tenancies as defined in law. This time it is clearly not a regulated tenancy and it is not competent for you to proceed under rule 77. Please confirm you agree. Rule 66 applies to applications seeking eviction order from short assured tenancies based on certain specific relevant provisions of the Housing (Scotland) Act 1988. This process does not require to be based on any of the grounds for eviction set out in the 1988*

*Act. However in your application form you indicate you are seeking an eviction order based on grounds 8 and 8A, presumably as set out in the 1988 Act. If you are seeking an order based on those grounds then you require to lodge an application under rule 65. Such an application would require to be lodged using a separate application form. Please confirm whether you wish to lodge a separate application under ruled 65 or whether you wish to proceed only on the basis of the rule 66 Application. If you intend to proceed on the rule, 65, we note that your form AT6 contains reference to grounds 1 and 8 and has no reference to ground 8A. Please explain the basis upon which the tribunal can grant an eviction order based on a ground which was not contained in any notice served on the tenant. 2 It is also noted that the AT6 does not appear to meet the requirements of section 18 in that it does not set out the proposes grounds in full. In one copy you have provided it also fails to indicate the date on or after which you will raise proceedings. Please refer to Part 4 of the AT6 you initially provided. Please explain why this omission does not render the notice invalid. Please confirm whether you wish to proceed in this matter. If you believe you are entitled to proceed using any ground based on rent arrears, then please provide evidence of compliance with The Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020. What steps have been taken in conjunction with the tenant to manage arrears prior to commencing proceedings for repossession on the grounds of rent arrears. Please provide a rent statement showing rents due and payment dates, payments made and a running total of arrears dating back to the date when you claim that arrears began to accrue. If you wish to proceed under rule 66, then please note that in the notice to quit which has been provided, it is indicated that the tenant requires to quit the premises by "1 April 2023". The initial tenancy bears to run from 9 August 2013 to 9 February 2014 and monthly thereafter. Does the notice to quit specify a removal date which is an "ish" or end date of the tenancy? If not on what basis is the purported notice effective and valid in law? Please note the terms of the attached letter relating to the potential impact on your application of the Cost of Living (Tenant Protection) (Scotland) Act 2022 Upon receipt of the above information, a final decision can then be taken on whether the application is valid and whether it should be accepted and referred to the tribunal for full determination. Please reply to this office with the necessary information by 24 October 2023."*

3. By email dated 23 October 2023, the Applicant's Representative requested an extension of time to reply until 10 November 2023. This extension was granted but no response was received from the Applicant's Representative. A reminder for the required information was sent to the Applicant's Representative on 14 November 2023 giving until 28 November 2023 for a response. No response was received. The Applicant's Representative were advised that lack of response might mean that the applications would be rejected in terms of Rule 8 of the Rules.

#### **Reasons for Decision**

4. The Tribunal 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;· (c) they have good reason to believe that it*

*would not be appropriate to accept 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."*

5. Rules 66 and 77 of the Rules provides that an application for an eviction order must be accompanied by a copy of the statutory Notices to Quit and under Section 33. Further, the Tribunal requires to be satisfied that the Applicant has power and authority to make the application. If the application is to proceed under a different Rule, being Rule 65, evidence of the breach of tenancy must also be provided. In this case, the Applicant has failed to provide any of the required documentation. The Tribunal cannot grant the applications without this information.
6. The Tribunal consider that there is good reason why the applications cannot be accepted. Accordingly, the application is rejected.

### **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.**

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**Legal Member**

**Date**

**3 January 2024**