



**DECISION AND STATEMENT OF REASONS OF FIONA WATSON, 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

**20 Spruce Grove, East Kilbride, G75 9LU ("the Property")**

**Case Reference: FTS/HPC/EV/24/3880**

**Jennifer Clark, 44 Lochranza Drive, East Kilbride, G75 9NA ("the Applicant")**

**Mr and Mrs Samuel & Princess Oduwole, 20 Spruce Grove, East Kilbride, G75  
9LU ("the Respondent")**

1. The Applicant submitted an application under Rule 109 of the Rules seeking a repossession order on the basis of rent arrears. The Applicant lodged the following accompanying documents with the application:
  - (i) Notice to Leave
  - (ii) Certificate of Postage dated 15 July 2024
  - (iii) Rent account
  - (iv) S11 notice and evidence of service on local authority
  - (v) Inventory Report
  - (vi) Private Residential Tenancy Agreement

**DECISION**

2. The Legal Member 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.*

- 3. After consideration of the application and the documents submitted by the Applicant in support of same, the Legal Member considers that the application should be rejected on the basis that there is good reason to believe that it would not be appropriate to accept the application within the meaning of Rule 8(1)(c) of the Rules.**

### **Reasons for Decision**

4. Letters were sent to the Applicant's representative on 19 September 2024 and 11 November 2024 seeking clarification on the following issue:
- (i) "It appears that, at the time of serving the notice to leave, the ground of eviction was not met, as the Respondent was not in arrears for three or more consecutive months. Your attention is drawn to the Upper Tribunal

cases of Majid v Gaffney [2019] UT 59, and Rafique v Morgan [2022] UT 07 which provide that the tenant must have been in arrears for three full months, and not just owing rent. If you accept that the ground was not met at the time the notice was served, please consider withdrawing the application, or provide your written representations as to why the application should be accepted.”

5. It was also noted there is a joint owner on the title deed and the Applicant's representative was asked to either add the joint owner to be a joint applicant on the application or seek their authorisation to the Applicant making the application in their sole name.
6. There was no response from the Applicant's representative to either of the two letters of 19 September 2024 and 11 November 2024. It is clear from the rent statement provided with the application that the tenants have not been in arrears of rent for three full months at the date of service of the Notice to Leave and therefore in terms of the decisions of the Upper Tribunal in the cases of Majid v Gaffney [2019] UT 59 and Rafique v Morgan [2022] UT 07, the ground has not been met and the application is therefore premature. Accordingly, the Legal Member has good reason to believe that it would not be appropriate to accept the application.
7. The Legal Member therefore determines that it would not be appropriate to accept the application. The application is rejected on that basis.

### **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.

Fiona Watson  
Legal Member  
30 December 2024