

Housing and Property Chamber
First-tier Tribunal for Scotland



**DECISION AND STATEMENT OF REASONS OF DAVID M PRESTON, 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 Procedural Rules")

in connection with

Flat 3/1, 37 Virginia Street, Glasgow G1 1TS

Case Reference: FTS/HPC/EV/19/2845

**Mr David Innes, 1A Undercliff Road, Wemyss Bay, PA18 6AQ per Glasgow Property Letting
17 Elmbank Street, Glasgow G2 4PB ("the applicant")**

**Mr Abdulmalik Damisa Muhibdeen, residing at Flat 3/1 37 Virginia Street, Glasgow G1 1TS
("the respondent")**

DECISION

After consideration of the application, the attachments and correspondence from the applicant, I consider that the application should be rejected on the basis that I have good reason to believe that it would not be appropriate to accept the application within the meaning of Rule 8(1)(c) of the Procedural Rules.

BACKGROUND

1. On 11 September 2019, an application was received from the applicant. The application was made under Rule 109 of the Procedural Rules being an application for an eviction order under a Private Residential Tenancy Agreement dated 1 October 2018. The following documents were enclosed with the application:-

- Notice to Leave dated 9 September 2019;
- Tenancy Agreement dated 1 October 2018;
- Rent Statement for the period 1 October 2018 to 14 October 2019;
- Track and Trace confirmation and Certificate of Posting dated 9 September 2019;
- Notice under Section 11 of the Homelessness etc Act 2003.

2. Rule 8 of the Procedural Rules 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."

REASONS FOR DECISION

3. The applicants seek to recover possession of the property on the basis of Ground 12 of Schedule 3 to the Private Housing (Tenancies) (Scotland) Act 2016.
4. The Notice to Leave dated 9 September 2019 states that an application will not be submitted to the Tribunal for an eviction order before 14 October 2019.
5. The application was received by the Tribunal on 11 September 2019 which pre-dated the date specified in the Notice to Leave.
6. On 2 October 2019 the applicant was invited to withdraw the application and re-submit, which he has not done. Accordingly the Tribunal has no jurisdiction to consider this application which is rejected.

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.

David M Preston
Legal Member