



**DECISION AND STATEMENT OF REASONS OF PETRA HENNIG MCFATRIDGE 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 2 Cambuslang Road Glasgow G72 7BZ

Case Reference: FTS/HPC/CV/20/1137

Rizwanah Ajaib, 199-201 Maryhill Road Glasgow ("the applicant")

**Premier Serviced Properties Ltd, Mr Maboob Akhtar, 13 Carrington Street Glasgow ("the
respondents")**

1. On 30 April 2020 an application dated 29 April 2020 was received by the Tribunal. The application was made under Rule 70 of the Procedural Rules being an application for Civil Proceedings in relation to an assured tenancy under the Housing (Scotland) Act 1988.
2. The Respondent is stated as Premier Serviced Properties Ltd.
3. The following documents were ultimately lodged in connection with the application:- a document headed Short Assured Tenancy Agreement commencing 14 August 2017 between Rizwanah Ajaib and Holiday Let Solutions Ltd and a rent statement showing 2 payment entries for UK Short Stay Ltd.
4. The documents are referred to for their terms and held to be incorporated herein.

DECISION

5. 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; 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."

6. After consideration of the application, the attachments and correspondence from the Applicant, I consider that the application should be rejected in terms of Rule 8 (c) of the Rules of Procedure on the basis as the Tribunal has good reason to believe that it would not be appropriate to accept the application.

REASONS FOR DECISION

7. The jurisdiction of the Tribunal in civil matters arising out of the Housing (Scotland) Act 1988 as stated in Rule 70 is set out in s 16 of the Housing (Scotland) Act 2014, which reads: “16 Regulated and assured tenancies etc. (1) The functions and jurisdiction of the sheriff in relation to actions arising from the following tenancies and occupancy agreements are transferred to the First-tier Tribunal— (a) a regulated tenancy (within the meaning of section 8 of the Rent (Scotland) Act 1984 (c.58)), (b) a Part VII contract (within the meaning of section 63 of that Act), (c) an assured tenancy (within the meaning of section 12 of the Housing (Scotland) Act 1988 (c.43)). (2) But that does not include any function or jurisdiction relating to the prosecution of, or the imposition of a penalty for, a criminal offence. (3) Part 1 of schedule 1 makes minor and consequential amendments.”
8. The tenancy was entered into on 14 August 2017 and is described as a Short Assured Tenancy. As the tenancy agreement purports to be a Short Assured Tenancy in terms of S 32 of the Housing (Scotland) Act 1988, the Tribunal’s jurisdiction would have to arise from the Housing (Scotland) Act 1988. A Short Assured Tenancy is a type of an Assured Tenancy. S 12 of the Housing (Scotland) Act 1988 sets out which types of tenancies can be an assured tenancy. In terms of s 12 of the Housing (Scotland) Act 1988 an assured tenancy is “a tenancy under which a house is let as a separate dwelling ...so long as- the tenant or as the case may be at least one of the joint tenants is an individual, and the tenant or, as the case may be, at least one of the joint tenants occupies the house as his only or principal home”
9. The tenancy agreement purports to be a Short Assured Tenancy entered into between the applicant and “Holiday Let Solutions Ltd”. Holiday Let Solutions is clearly not an individual but a limited company.
10. The Respondent in the application is not the tenant named in the tenancy agreement submitted but Premier Serviced Properties Ltd. The Respondent is also a limited

company.

11. In terms of the documents lodged, the tenant named in the tenancy agreement and the Respondent named in the application are both organisations rather than individuals. There is no indication that the property is let as to an individual as his own or principal home. The Housing (Scotland) Act 1988 does not apply to the tenancy because it is not an assured tenancy. The application cannot be an application under Rule 70.
12. From the names of the said organisations the purpose of the tenancy appears to be that the property should be used by the tenant to provide holiday lets. The agreement between the applicant and the tenant is then a commercial let.
13. The Tribunal does not have jurisdiction over civil disputes arising from commercial lets.
14. The Tribunal does not have jurisdiction in the case and it would thus not be appropriate to accept the application.
15. Furthermore, any application in terms of Rule 70 would require in terms of Rule 70 (b) (i) to be accompanied by evidence to support the application to be valid. None of the documents lodged with the application show any connection to the Respondent named in the application and thus no evidence to support an application against a Respondent Premier Serviced Properties Ltd has been provided with the application and the application does not meet the lodging requirement as stated above. The application is also rejected for that reason.

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.

Petra Hennig McFatridge
Legal Member
14 May 2020