

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 1/1, 12 Castlebank Place, Glasgow G11 6BW

Case Reference: FTS/HPC/PR2715

Mr Abdulrahman Nada, PO Box 12921, Jeddah, 21483, Saudi Arabia ("the applicant")

Miss Michelle Stoddart, Flat 6/3, 16 Castlebank Place, Glasgow G11 6BJ ("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 the application is being made for a purpose other than a purpose specified in the application within the meaning of Rule 8(1)(d) of the Procedural Rules.

BACKGROUND

1. On 29 August 2019, an application was received from the applicant. The application was made under Rule 67 of the Procedural Rules being an application to determine removal



expenses under section 22 of the Housing (Scotland) Act 1988. The applicant also submitted an application purporting to be under Rule 47 under reference FTS/HPC/19/2790.

2. In respect of both applications, on 18 September and 16 October 2019 the applicant was requested by email and letter to confirm the basis on which the terms of Rule 67 or 47 applied. It was explained that it appeared to the legal member that the applications should be made on one application under Rule 70.

REASONS FOR DECISION

3. Rule 67 covers applications to determine removal expenses where: (1) the lease was an Assured tenancy or a Short Assured Tenancy; (2) the Tribunal has made an order for possession of the property under Ground 6 or Ground 9 of Schedule 5 to the Housing (Scotland) Act 1988; and (3) the landlord and tenant were unable to agree the removal expenses.
4. This application appears to seek the recovery of expenses for the removal of goods belonging to the respondent (tenant) when she vacated the property. There does not appear to have been any order made by the tribunal for possession of the property. Any such expenses should be sought under Rule 70.
5. Despite requests, no evidence has been produced that any of the above requirements of have been met.
6. 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."

7. In the absence of any evidence, it appears that the application is being made for a purpose other than a purpose specified in 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.



David M Preston
Legal Member

31 October 2019