Neutral Citation Number: [2020] EWCA Civ 1422

Case No: B5/2020/0013

IN THE COURT OF APPEAL (CIVIL DIVISION)
ON APPEAL FROM THE COUNTY COURT AT CENTRAL LONDON
His Honour Judge Lethem
F00BT511

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 30 October 2020

Before :

LORD JUSTICE DAVID RICHARDS
LORD JUSTICE HENDERSON
and
LORD JUSTICE NUGEE

- -

Between :

MS CYNTHIA PREMPEH	**Appellant**
- and -	
MRS FERAKH LAKHANY	**Respondent**

- -
- -

Toby Vanhegan and **Robert Brown** (instructed by **Duncan Lewis** Solicitors) for the **Appellant**

Simon Jones (instructed by **Philip Ross Solicitors**) for the **Respondent**

Hearing date: 21 October 2020

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Approved Judgment

Lord Justice Nugee:

Introduction

1. This appeal concerns the validity of a landlord's notice served under the Housing Act 1988 (**"the 1988 Act"**) in respect of an assured shorthold tenancy. Where a landlord wishes to take proceedings for possession, s. 8 of the 1988 Act requires him or her to serve a notice in a prescribed form (a **"s. 8 notice"**) before doing so. The particular question raised by the appeal is whether the s. 8 notice has to contain the landlord's own name and address, as opposed to the name and address of the landlord's agent, either in every case, or at any rate if the landlord wishes to rely on arrears of rent as a ground for possession.

2. The appeal is brought by the tenant, Ms Cynthia Prempeh, against the Order of HHJ Lethem sitting in the County Court at Central London dated 16 December 2019. By his Order HHJ Lethem allowed an appeal on a number of grounds against the Order of Deputy District Judge Goodman dated 25 July 2019 in which she had ordered possession in favour of Mrs Ferakh Lakhany, the present respondent. HHJ Lethem did not however accept the argument for Ms Prempeh that the landlord's s. 8 notice in this case was invalid and of no effect because of the failure to give Mrs Lakhany's name and address. The submission advanced on appeal to this Court by Mr Toby Vanhegan, who appeared with Mr Robert Brown for Ms Prempeh, is that he should have accepted that argument. Permission to appeal was granted by Arnold LJ on 4 May 2020.

3. For the reasons that follow, I would dismiss the appeal and hold that the s. 8 notice served on behalf of Mrs Lakhany was valid and effective, or to be more precise, that it is not invalidated by the failure to give her own name and address: as explained below, there is in fact an unresolved question whether Mrs Lakhany is or is not Ms Prempeh's landlord. As Mr Vanhegan pointed out, if Mrs Lakhany is not her landlord, the s. 8 notice would no doubt be invalid, but that is likely to be of no significance as in that case the entire claim will fail in any event as she will have no standing to seek either possession or any other relief.

Facts

4. By a tenancy agreement dated 16 December 2016 Mrs Lakhany let a flat at Flat 16, Amelia House in London NW9 (**"the flat"**) to two tenants, Ms Rita Appiah-Baker and Ms Prempeh, on an assured shorthold tenancy for a term of one year from 17 December 2016 to 16 December 2017, and thereafter on a monthly periodic basis, at a rent of £1500 per calendar month. The tenancy agreement gave the name of the landlord as Mrs Lakhany and her contact address as "C/O O'Sullivan Property Consultants Ltd".

5. There is a dispute as to whether this tenancy agreement (**"the 2016 tenancy agreement"**) has been replaced by a further agreement. Ms Prempeh's case is that it has, and she has produced a copy of a further tenancy agreement dated 17 December 2017 (**"the 2017 tenancy agreement"**). This again is expressed to create an assured shorthold tenancy of the flat at a rent of £1500 per month but with a number of differences. These included the following: first, it let the flat to Ms Prempeh alone, Ms Appiah-Baker having (according to Ms Prempeh) left the flat; second, the term

was "one calendar year with 6 months get out clause"; and third, and most significantly, the landlord was not expressed to be Mrs Lakhany but "O'Sullivan Property Consultants". Mrs Lakhany's case is that no such 2017 tenancy agreement was ever entered into, and that Ms Prempeh simply continued to occupy the flat under the 2016 tenancy agreement. This dispute has not yet been resolved and is not a matter for us: it is a matter that will fall to be determined at trial.

6. It appears that the rent was duly paid down to the end of 2017 or so, but thereafter the rent fell into arrears. By October 2018 these amounted to over £11,000. From October 2018 to April 2019 regular payments amounting to £1500 per month were made, but these did nothing to reduce the arrears. On 23 April 2019 Mrs Lakhany's solicitors, Philip Ross Solicitors, served a s. 8 notice addressed to Ms Appiah-Baker and Ms Prempeh at the flat. I will have to give more details of the notice in due course but in summary it was a notice warning the tenant that the landlord intended to apply to court for an order for possession on Grounds 8, 10 and 11 in Schedule 2 to the 1988 Act (all of which concern default in paying rent), giving details of the arrears of rent (amounting to £11,238.44 as at 18 April 2019) and stating that proceedings would not be brought until after 10 May 2019. It was signed by Philip Ross Solicitors as the landlord's agent and it gave their name, address and telephone number. Nowhere in the s. 8 notice did it refer to Mrs Lakhany by name or give her address; Philip Ross's covering letter did say that they acted for "your Landlord, Mrs F Lakhany", but that did not give her address either.

7. On 14 May 2019 Mrs Lakhany issued a claim form against Ms Appiah-Baker and Ms Prempeh seeking possession of the flat and a money judgment in respect of the arrears.

8. The first hearing of the claim took place on 25 July 2019 before DDJ Goodman sitting in the County Court at Barnet. This was a short hearing at the end of the day in the undefended possession list. The defendants were represented by the duty solicitor Mr Smith. He took three points. One was that the tenancy agreement in force was the 2017 tenancy agreement and hence that the wrong party had brought the claim. The second was that the s. 8 notice was invalid as it was a "demand for rent" within the meaning of s. 47 of the Landlord and Tenant Act 1987 (**"the 1987 Act"**) and hence had to have the name and address of the landlord herself, not just that of her agent. The third was that Ms Prempeh had a claim against Mrs Lakhany in respect of the deposit which it was alleged had not been dealt with as it should have been under the Housing Act 2004; Mr Smith accepted that the maximum amount of such a claim would be £6,000, and that there were rent arrears of £11,173.54, and so accepted that this would not amount to a complete defence (either to the money claim or to the claim for possession), but it would still amount to a partial defence to the money claim.

9. DDJ Goodman rejected all three points: she found (having heard evidence from Mr Hamza Lakhany, Mrs Lakhany's brother-in-law and an employee of O'Sullivan Property Consultants Ltd, but not from Ms Prempeh, although she was willing to give evidence) that the tenancy agreement in force was the 2016 tenancy agreement not the 2017 tenancy agreement; she did not think there was anything in the point about the validity of the s. 8 notice; and she said that Ms Prempeh could pursue her claim in relation to the deposit separately. She therefore gave judgment in favour of Mrs Lakhany and by her Order dated 25 July 2019 ordered that possession of the flat be

given and that judgment be entered in the sum of £11,173.54 for rent arrears.

10. Ms Prempeh appealed. There were 6 grounds of appeal, but they effectively amounted to three points. Grounds 1, 4, 5 and 6 challenged DDJ Goodman's decision that the relevant tenancy agreement in force was the 2016 tenancy agreement, largely on the basis that various aspects of the hearing were unfair to Ms Prempeh although Ground 4 also criticised her reasoning. Ground 2 raised the point about the s. 8 notice being invalid because it was a demand for rent within the meaning of s. 47 of the 1987 Act and did not give Mrs Lakhany's name and address. Ground 3 was that the claim in respect of the deposit raised an arguable case of set-off and directions should have been given for its trial before the money judgment was entered.

11. The appeal was heard by HHJ Lethem sitting in the County Court at Central London on 10 December 2019. He gave judgment on 16 December 2019. In a careful and thorough judgment he first discussed the question whether the s. 8 notice was a demand for rent (Ground 2). He was invited to follow the decision of HHJ Saunders, also sitting in the County Court at Central London, in *CY Property Management Ltd v Babalola* (25 Jan 2019) in which HHJ Saunders had been persuaded by Mr Brown to hold that a s. 8 notice was a demand for rent, but HHJ Lethem, recognising that that judgment was persuasive but not binding, declined to follow it, and concluded that the s. 8 notice was not a demand for rent (at [48]). He then considered the hearing before DDJ Goodman, and although expressing considerable sympathy for her, concluded that her decision could not stand and did not represent a fair trial (at [72]). He therefore allowed the appeal on Grounds 1, 5 and 6. He did not need to consider Ground 4. He then dealt with the claim in relation to the deposit (Ground 3) and concluded that it was wrong in principle that that claim should be dealt with separately as it amounted (if valid) to a set-off and hence a partial defence (at [76]).

12. In his Order dated 16 December 2019 he therefore allowed the appeal on Grounds 1, 3, 5 and 6, set aside the Order of DDJ Goodman, directed that the matter be listed before a District Judge at the Barnet Hearing Centre with a time estimate of 1½ days, and gave suitable directions for trial. Although he directed that it be heard on the first open date after 10 February 2020, we were told that the trial has not yet in fact taken place, being initially listed in May and then adjourned due to the Coronavirus restrictions on possession claims. It is now expected to be heard some time next year.

13. We are not concerned on this appeal with either the fairness of the trial before DDJ Goodman or the set-off point. We are only concerned with whether the s. 8 notice was invalidated because it was signed by Philip Ross and gave their name and address, but did not give Mrs Lakhany's name and address. The substance of HHJ Lethem's Order remitting the matter for a new trial will therefore stand whatever the outcome of the appeal. But it was not suggested that the appeal infringed the well-known principle that appeals only lie against orders not the reasons for them, and in my view rightly so. What Mr Vanhegan seeks if he succeeds in the appeal is to replace HHJ Lethem's Order (allowing the appeal against DDJ Goodman's Order on Grounds 1, 3, 5 and 6) with an Order allowing that appeal on Grounds 1, 2, 3, 5 and 6. That may seem a slight difference but it would radically alter the shape of the trial: as explained below, it would prevent Mrs Lakhany from relying on Ground 8 in her s. 8 notice, which is the only mandatory ground for possession, and confine her to Grounds 10 and 11, which are discretionary grounds, and it would also require her to persuade the trial judge that it was just and equitable to dispense with the requirement

for a s. 8 notice.

Grounds of Appeal

14. Two grounds of appeal are advanced by Mr Vanhegan before us. Ground 1 is the same point as was unsuccessfully advanced before DDJ Goodman and HHJ Lethem, namely that Mrs Lakhany's s. 8 notice is a demand for rent within the meaning of s. 47 of the 1987 Act; it therefore had to give the landlord's (own) name and address; and having failed to do so, it was invalid.

15. Ground 2 is that the failure to include Mrs Lakhany's own name and address in the s. 8 notice meant that the notice was not in the prescribed form required by s. 8 and regulations made under it, and hence again was invalid. This was a point in fact left open by HHJ Lethem, but it is clearly appropriate for us to deal with it and it has been fully argued.

The Housing Act 1988

16. Part I of the 1988 Act concerns rented accommodation. Chapter I of Part I (ss. 1 to 18) concerns assured tenancies. By s. 19A of the 1988 Act assured tenancies granted after the Housing Act 1996 came into force are assured shorthold tenancies, subject to certain exceptions. The 2016 tenancy agreement duly created an assured shorthold tenancy, and as can be seen this is a species of assured tenancy and therefore subject to Chapter I of Part I of the 1988 Act.

17. As such there are statutory restrictions on the tenancy being terminated by the landlord. By s. 5(1) of the 1988 Act an assured tenancy cannot be terminated by the landlord except in certain specified ways, the first of which is by obtaining an order for possession of the property and execution of the order (s. 5(1)(a)). By s. 7(1) of the 1988 Act the Court shall not make an order for possession of a dwelling-house let on an assured tenancy except on one of the grounds set out in Schedule 2 to the Act. The grounds set out in Schedule 2 are of two types. Those in Part I of Schedule 2, namely Grounds 1 to 8, are mandatory grounds: if the Court is satisfied that any such ground is established, then (subject to certain narrow exceptions) by s. 7(3) the Court must make an order for possession. Those in Part II of Schedule 2, namely Grounds 9 to 17A, are discretionary grounds: if the Court is satisfied that any such ground is established, then (again subject to certain narrow exceptions) by s. 7(4) the Court may make an order for possession if satisfied that it is reasonable to do so.

18. The grounds relied on by Mrs Lakhany in the present case are Grounds 8, 10 and 11, of which Ground 8 is a mandatory ground, and Grounds 10 and 11 are discretionary grounds. These are all concerned with default in paying rent, but differ in their details, as follows:

> "**Ground 8**
>
> Both at the date of the service of the notice under section 8 of this Act relating to the proceedings for possession and at the date of the hearing—
>
> (a) if rent is payable weekly or fortnightly, at least eight weeks' rent is unpaid;
>
> (b) if rent is payable monthly, at least two months' rent is unpaid;

(c) if rent is payable quarterly, at least one quarter's rent is more than three months in arrears; and

(d) if rent is payable yearly, at least three months' rent is more than three months in arrears;

and for the purpose of this ground "rent" means rent lawfully due from the tenant.

Ground 10

Some rent lawfully due from the tenant—

(a) is unpaid on the date on which the proceedings for possession are begun; and

(b) except where subsection (1)(b) of section 8 of this Act applies, was in arrears at the date of the service of the notice under that section relating to those proceedings.

Ground 11

Whether or not any rent is in arrears on the date on which proceedings for possession are begun, the tenant has persistently delayed paying rent which has become lawfully due."

19. By s. 8 of the 1988 Act, the landlord has to serve notice on the tenant before bringing a claim for possession. In the form in which it stood at the relevant time in the present case, it provided, so far as relevant, as follows:

"**8. Notice of proceedings for possession**

(1) The court shall not entertain proceedings for possession of a dwelling-house let on an assured tenancy unless—

(a) the landlord or, in the case of joint landlords, at least one of them has served on the tenant a notice in accordance with this section and the proceedings are begun within the time limits stated in the notice in accordance with subsections (3) to (4B) below; or

(b) the court considers it just and equitable to dispense with the requirement of such a notice.

(2) The court shall not make an order for possession on any of the grounds in Schedule 2 to this Act unless that ground and particulars of it are specified in the notice under this section; but the grounds specified in such a notice may be altered or added to with the leave of the court.

(3) A notice under this section is one in the prescribed form informing the tenant that—

(a) the landlord intends to begin proceedings for possession of the dwelling-house on one or more of the grounds specified in the notice; and

(b) those proceedings will not begin earlier than a date specified in the notice in accordance with subsections (3A) to (4B) below; and

> (c) those proceedings will not begin later than twelve months from the date of service of the notice.
>
> (3A) [refers to notices relying on Ground 7A]
>
> (4) [refers to notices relying on Ground 14]
>
> (4A) [refers to notices relying on any of Grounds 1, 2, 5 to 7, 9 and 16]
>
> (4B) In any other case, the date specified in the notice as mentioned in subsection (3)(b) above shall not be earlier than the expiry of the period of two weeks from the date of the service of the notice.
>
> …
>
> (5) The court may not exercise the power conferred by subsection (1)(b) above if the landlord seeks to recover possession on Ground 7A, 7B or 8 in Schedule 2 to this Act."

20. The reference in s. 8(3) to a notice in the "prescribed" form is by s. 45(1) of the 1988 Act a reference to the form prescribed in regulations made by the Secretary of State by statutory instrument. The relevant regulations in force are the Assured Tenancies and Agricultural Occupancies (Forms) (England) Regulations 2015 (SI 2015/620), as amended (**"the regulations"**). By reg 2, any reference in the regulations to a numbered form is a reference to:

> "the form bearing that number in the Schedule to these Regulations, or to a form substantially to the same effect."

There are currently 10 forms in the Schedule to the regulations, numbered 1 to 6, 6A, and 7 to 9. By reg 3(c) the form prescribed for a notice under s. 8 informing the tenant that the landlord intends to begin proceedings for possession of a dwelling-house let on an assured tenancy is Form No. 3 (**"Form 3"**). The version of Form 3 relevant to the present case is that substituted by the Assured Tenancies and Agricultural Occupancies (Forms) (England) (Amendment) Regulations 2016 (SI 2016/443). It has since been replaced again, but this does not affect the outcome of this appeal.

21. Much of the argument on Ground 2 turned on the appearance of Form 3. I therefore annex a copy of Form 3 as it appeared in the regulations at the relevant time. As can be seen, in a number of places the form has dotted lines where it is intended that the form should be filled in. Thus paragraph 1 has:

> "To……"

In the present case the s. 8 notice served on behalf of Mrs Lakhany, which was on a form provided by a law stationer, was not in exactly the same format in that it had text boxes where the statutory form had dotted lines. Thus for example paragraph 1 read:

> "To | Rita Appiah-Baker and Cynthia Prempeh | "

It is not suggested that this makes any material difference; the form, as Mr Vanhegan accepted, is obviously in this respect substantially to the same effect as Form 3.

The Landlord and Tenant Act 1987

22. For the purposes of Ground 1 it is necessary also to refer to ss. 47 and 48 of the Landlord and Tenant Act 1987. This Act was largely based on the recommendations contained in the Report of the Committee of Inquiry on the Management of Privately Owned Blocks of Flats, which had been established in 1984 by the then Minister of Housing under the chairmanship of my late father Mr Edward Nugee QC (**"the Nugee Committee"**), and contains a number of disparate provisions for the benefit of residential tenants. Part VI (ss. 46 to 50) is concerned with the provision of information to tenants, and ss. 47 and 48 (as amended) provide as follows:

> "**47. Landlord's name and address to be contained in demands for rent etc.**
>
> (1) Where any written demand is given to a tenant of premises to which this Part applies, the demand must contain the following information, namely—
>
> (a) the name and address of the landlord, and
>
> (b) if that address is not in England and Wales, an address in England and Wales at which notices (including notices in proceedings) may be served on the landlord by the tenant.
>
> (2) Where—
>
> (a) a tenant of any such premises is given such a demand, but
>
> (b) it does not contain any information required to be contained in it by virtue of subsection (1),
>
> then (subject to subsection (3)) any part of the amount demanded which consists of a service charge or an administration charge ("the relevant amount") shall be treated for all purposes as not being due from the tenant to the landlord at any time before that information is furnished by the landlord by notice given to the tenant.
>
> (3) The relevant amount shall not be so treated in relation to any time when, by virtue of an order of any court or tribunal, there is in force an appointment of a receiver or manager whose functions include the receiving of service charges or (as the case may be) administration charges from the tenant.
>
> (4) In this section *"demand"* means a demand for rent or other sums payable to the landlord under the terms of the tenancy.
>
> **48. Notification by landlord of address for service of notices.**
>
> (1) A landlord of premises to which this Part applies shall by notice furnish the tenant with an address in England and Wales at which notices (including notices in proceedings) may be served on him by the tenant.
>
> (2) Where a landlord of any such premises fails to comply with subsection (1), any rent, service charge or administration charge otherwise due from the tenant to the landlord shall (subject to subsection (3)) be treated for all purposes as not being due from the tenant to the landlord at any time before the landlord does comply with that subsection.

(3) [refers to the case where there is a court-appointed receiver or manager]."

Ground 1

23. Ground 1 of Ms Prempeh's appeal, as already referred to, is that Mrs Lakhany's s. 8 notice was a demand for rent within the meaning of s. 47 of the 1987 Act. Three questions arise under this ground:

(1) Was the s. 8 notice a demand for rent?

(2) If so, did it comply with s. 47(1) of the 1987 Act?

It was accepted by Mr Simon Jones, who appeared for Mrs Lakhany, that the answer to this is No, as s. 47(1) of the 1987 Act requires the demand to give the landlord's own name and address: see *Beitov Properties Ltd v Martin* [2012] UKUT 133 (LC) where the President of the Lands Chamber of the Upper Tribunal held that a demand that contained the landlord's name but did not contain the landlord's own address (only that of its agent) did not comply with s. 47(1).

(3) If it did not comply with s. 47 of the 1987 Act, did that invalidate the notice as a s. 8 notice?

24. At this point I should describe in more detail Mrs Lakhany's s. 8 notice. As set out above, it was in the shape of a form with text-boxes. The first was in paragraph 1 which was filled in with the names of both Ms Appiah-Baker and Ms Prempeh (paragraph 21 above), Mrs Lakhany's case of course being that the flat was still held on the terms of the 2016 tenancy agreement which was made with both of them. In paragraph 2 there was a box filled in with the address of the flat. In paragraph 3 there were two boxes, a small one after "ground(s)", filled in with "8, 10 and 11" and a larger one after "reads:" which set out the statutory text of each of those grounds. In paragraph 4 there was a box in which details of the rent account and arrears were given (with a reference also to a statement of account attached). In paragraph 5 there was a box with the date 10 May 2019 (being the date after which proceedings might be brought). Paragraph 6 then read as follows:

"6. Name and address of landlord/~~licensor~~*.

To be signed and dated by the landlord or licensor or the landlord's or licensor's agent (someone acting for the landlord or licensor) If there are joint landlords each landlord or the agent must sign unless one signs on behalf of the rest with their agreement."

That was followed by a text box with a space for signature (signed Philip Ross) and date (filled in as 23 April 2019), a choice of tickboxes (in which "landlord's agent" was ticked), and boxes for name, address and telephone (filled in with Philip Ross's name, address and telephone number).

25. It can be seen from comparison with the statutory form that there was a text-box wherever the statutory form had dotted lines for filling in.

26. The first question then is whether this s. 8 notice was a demand for rent within the meaning of s. 47(4) of the 1987 Act. It is noticeable that if it is, it has the curious result that certain s. 8 notices are subject to the requirements of s. 47(1), but others are not. There are many grounds in Schedule 2 to the 1988 Act which have nothing to do with the non-payment of rent, and so on any view, as Mr Vanhegan accepted, notices relying on such grounds alone cannot be said to be demands for rent. That suggests that if Mr Vanhegan is right that the 1987 Act does apply to those s. 8 notices that do rely on non-payment of rent, this is unlikely to be a consequence deliberately intended by Parliament. What is now the 1988 Act replaces similar provisions dating back to the Housing Act 1980 which means that the requirement for notices to be given in a prescribed form before taking proceedings for possession pre-dates the 1987 Act. If Parliament had intended when enacting the 1987 Act to apply s. 47 to such notices, one would expect Parliament to have extended the provisions of s. 47 expressly to such notices, and to all of them, not just those that happened to rely on non-payment of rent. That does not mean that Mr Vanhegan is wrong, but merely that if he is right, the requirement for the landlord's name and address to be included on certain s. 8 notices (but not others) has been brought in by a sidewind.

27. There is no definition of the phrase "demand for rent" in the 1988 Act. Mr Vanhegan referred to a short Act called the Statement of Rates Act 1919 (**"the 1919 Act"**) which does contain such a definition. The effect of s. 1(1) of the 1919 Act is that every document containing "a demand for rent or receipt for rent" which includes any sum for rates paid by the owner instead of the occupier has to state the amount of such rates. s. 2 of the 1919 Act provides:

> "**2. Definition.**
>
> The expressions "demand for rent" and "receipt for rent" shall include a rent-book, rent-card and any document used for the notification or collection of rent due or for the acknowledgement of the receipt of the same."

That is evidently an extended definition of "demand for rent" for the specific purposes of the 1919 Act. It includes things such as a rent-book which could not on any normal usage of the phrase be regarded as a demand for rent: the purpose of a rent-book is to record the amount of rent due and the amount paid, not to make any demands at all.

28. Mr Vanhegan submitted that it could nevertheless be regarded as applicable to the use of the phrase in the 1987 Act on the principle that Acts *in pari materia* (ie dealing with the same subject-matter) can be construed together and that where a term is used without definition in one such Act, but is defined in another Act *in pari materia* with the first Act, the definition may be treated as applicable to the use of the term in the first Act; see *Bennion on Statutory Interpretation* (7th edn, 2017) at §18.9.

29. I do not doubt the principle, but it does not seem to me that the 1919 and the 1987 Acts are *in pari materia*. What it means for two Acts to be *in pari materia* is explained in *Bennion* at §21.5. That will be the case if they (i) have been given a collective title; (ii) are required to be construed together; (iii) have identical short titles; or (iv) "otherwise deal with the same subject matter on similar lines". Here (i), (ii) and (iii) do not apply; and I do not think that it can be said that the 1919 Act and the 1987 Act deal with the same subject-matter on similar lines. No doubt at a very high level of generality it can be said that s. 1 of the 1919 Act and s. 47 of the 1987

Act are both concerned with the obligation of landlords to furnish certain information to their tenants when demanding rent, but the purpose and effect of the two statutes seem to me quite different. We have no information as to what prompted the 1919 Act save what can be gleaned from the terms of s. 1 of the Act itself, but it would appear that it was designed to ensure that if landlords passed on a liability for rates to their tenants they should make it clear what they had paid, presumably to avoid them overcharging.

30. That seems a long way from the mischief at which s. 47 was aimed. That can be found in the Report of the Nugee Committee at §7.1 where they said:

> "7.1.1. We received much evidence about the problems that can arise because of poor communications between residents, landlords and managing agents to support the view of the James Working Party that where there is good communication there tended to be fewer management difficulties. We endorse this view and therefore consider various ways to encourage this.
>
> 7.1.2. Although the number of those who had difficulties over the identification of the landlord's name and address was relatively small … it was nevertheless a serious issue where it did arise."

At §7.1.4 they referred to the fact that criminal sanctions were ineffective if the landlord was abroad, and in any event there were no strong grounds for supposing that they had played any part in reducing the problem. Accordingly at §7.1.5 they recommended:

> "We make the following proposals for improving the statutory framework of communications between landlord and tenant:-
>
> i) all rent and service charge demands should show the landlord's name and address; if they fail to do so the tenant would be entitled to ignore that particular demand (but not his other obligations, because that might result in a deterioration in the conditions of the block as a whole)"

It can be seen that that has nothing to do with the risk of overcharging the tenant, but is concerned to ensure that landlords do provide their name and address so as to improve communications between landlord and tenant generally, with an effective sanction for failing to do so.

31. I therefore think the 1919 Act is of no assistance and can be put on one side. We are left with the undefined term "demand for rent". "Demand" is an ordinary English word, not one with a technical legal meaning, and on general principles should be given its ordinary meaning. Mr Vanhegan referred us to *Borealis AB v Stargas Ltd* [2001] UKHL 17 at [33] per Lord Hobhouse where he said that a demand might be an invitation or request or perhaps even implied from making arrangements, or it might mean something more formal. I accept that "demand" like most words can have a range of meanings, although I myself would have thought that while a politely worded request to pay ("Please pay me the rent you owe me") might well be a demand, a mere invitation seems quite a long way from the core concept of a demand. It is noticeable that in the particular context (which was the meaning of "demands delivery" in s. 3(1)(a) of the Carriage of Goods by Sea Act 1992) Lord Hobhouse concluded that what was required was a formal demand asserting a contractual right; and also that at

[35] he said this:

> "A "demand" made without any basis for making it or insisting upon compliance is not in reality a demand at all. It is not a request made "as of right" which is the primary dictionary meaning of "demand". It is not accompanied by any threat of legal sanction."

32. But I do not think it is necessary to explore this further. As I have said, demand is an ordinary English word, easier to recognise than define, and whatever its precise scope there must be some communication from the landlord to the tenant requiring payment before it can be said that the landlord has made a demand for rent. On its face the s. 8 notice here does not say anything about requiring payment. Nor indeed did Mr Vanhegan suggest that it did. His submission was that although there was no express request to pay, there was an implicit request, backed by the threat of proceedings which might lead to eviction of the tenant from her home, a money judgment and costs.

33. I do not accept this submission. It seems to me to confuse what the notice actually does, and what the practical consequences might be for the tenant. What the notice does is clear, as Mr Jones submitted, from the terms of s. 8 of the 1988 Act and the terms of the notice itself. What it does is give information to the tenant. That is how it is described in s. 8(3) of the 1988 Act where it is referred to as a notice in the prescribed form *informing* the tenant of various things. There are four matters referred to in s. 8(3) which the notice has to inform the tenant of. The first is that the landlord intends to take proceedings for possession; the second is the ground or grounds on which the landlord will rely (both in s. 8(3)(a)). The third is the earliest date on when proceedings might be brought (s. 8(3)(b)). The fourth is the date when the notice will lapse if no proceedings are brought (s. 8(3)(c)).

34. The notice itself unsurprisingly follows the statutory scheme. Paragraph 2 informs the tenant that the landlord is intending to apply to court for possession. Paragraphs 3 and 4 specify the grounds on which the landlord intends to rely, and details of why each ground is relied on. Paragraph 5 gives the earliest date when the proceedings can be brought, and the final bullet point under paragraph 5 explains that the notice will lapse, and a new notice will be required, if proceedings are not brought within 12 months from the date of service of the notice. Nothing in the prescribed form demands, or requests, politely or otherwise, or even invites, the tenant to do anything, save that the notes at the end advise the tenant to contact the person signing the form if they are willing to give up possession, and to take the notice to a solicitor or other source of advice if they need advice about it and what to do about it.

35. As Mr Vanhegan accepted this does not contain any express demand, but it also seems unpromising material from which to spell out any implicit demand. Mr Vanhegan said that the message to the tenant was that she had a very short time to remedy matters – in the present case 2 weeks – and that the implicit message was "You must pay your rent or else I will take you to court". The difficulty I have with that is that this is not what it says, and in any event there is no guarantee that, even if the tenant does pay the arrears of rent specified in the s. 8 notice, this will avoid proceedings.

36. This is easiest to see in the case of Ground 11. As appears above (paragraph 18), this

does not require there to be any arrears at all at the date that proceedings are begun; all it requires is that the tenant has persistently defaulted in paying rent. Two consequences follow. First, it would seem that there is no requirement that there be any arrears outstanding at the date of the service of the s. 8 notice either. This is the view taken in *Woodfall on Landlord and Tenant* (at §24.064 fn 3) and seems to me probably right, although it is not necessary to reach any conclusion on the point. If it is right that a s. 8 notice relying on Ground 11 can be served where there are no arrears at the date of notice, it could not be said to be a demand for rent, as there would be nothing outstanding for the tenant to pay. But it would seem distinctly odd if such a notice were outside s. 47 of the 1987 Act and yet a very similar notice, also relying on Ground 11 and a similar history of default, were to be within s. 47 simply because there was some amount, possibly very small and possibly only a matter of days late, outstanding at the date of the notice. Second, and more significantly, whether or not the view taken in *Woodfall* is right, what is entirely clear is that a tenant cannot prevent a landlord from proceeding to issue proceedings based on Ground 11 even if all arrears are cleared before the landlord does so. So in such a case the notice cannot be read as conveying the implicit message "Pay me the arrears or else I will take you to court"; the message actually conveyed is "You have persistently defaulted in paying rent and I am going to take you to court". That cannot in my view be equated with an implicit request or demand to pay anything.

37. A similar point arises under Ground 8. Here what the landlord needs to establish is that there are arrears of the requisite amount (2 months' rent in a case like the present where rent is payable monthly) at two particular points in time, namely at the date of service of the notice and at the date of the hearing (see paragraph 18 above). But Mr Jones submitted, and I agree, that they need not be the same arrears on the two occasions. Indeed very often they will not be. Take a case where rent of £1500 is payable on the 1st of each month and where the tenant misses two payments (say January and February) but thereafter resumes paying £1500 per month from March onwards. This is probably not an uncommon situation – indeed in the present case Ms Prempeh was paying her current rent in full when the notice was issued but not paying anything towards the arrears. The landlord can in such a case serve a s. 8 notice on 2 February relying on the January and February payments having been missed as at that stage 2 months' rent is unpaid; if he does so and issues proceedings in March and there is a hearing in May, the rent will still be £3000 in arrear and the landlord will therefore establish that at that date as well 2 months' rent is unpaid. But although there will be £3000 arrears at both dates, they will usually technically not be the same arrears, as in a running account such as a rent account payments will usually be taken to discharge the oldest debts first. That means that by the time of the hearing in May, the March and April payments will have discharged the January and February arrears. None of this however prevents the landlord from establishing Ground 8 and therefore a mandatory ground for possession.

38. If that is right, and in my view it is, the same must be true if the tenant, unusually, pays off the arrears in one go immediately on receipt of the s. 8 notice. Suppose that the tenant pays the £3000 arrears on 3 February, but thereafter misses the March and April payments. The landlord can still take proceedings and make out the Ground 8 claim in May based on (i) the January and February payments being outstanding at the date of service of the notice and (ii) the March and April payments being outstanding at the date of the hearing. There was some debate whether the same is true of Ground

10, but I do not think it is necessary to decide that.

39. What this somewhat elaborate explanation demonstrates is that a s. 8 notice based on Ground 8 cannot be taken to convey the implicit message "Pay me the arrears or else I will take you to court", as this would be inaccurate. The only accurate message that it conveys is "I am intending to take you to court; if you are still 2 months in arrears at the date of the hearing, I will ask for (and expect to obtain) possession." That no doubt gives the tenant an opportunity to avoid judgment for possession if they are in a position to ensure that there are by the time of the hearing no, or insufficient, arrears outstanding. But I still do not regard it as appropriate to describe the s. 8 notice as requiring payment, and in my judgment it is not a "demand for rent" within the meaning of s. 47 of the 1987 Act.

40. We were shown some authorities by Mr Vanhegan. These are not directly in point and I do not think they affect the conclusion I have reached. In *Torridge DC v Jones* (1985) 18 HLR 107 Oliver LJ at 113 described the notice (in that case under s. 33 of the Housing Act 1980, the predecessor of s. 8 of the 1988 Act) as a warning shot across the bows of the tenant and said that the object of it was to warn him that unless he repaired what was stated as the ground upon which possession was going to be sought he was going to be liable for court proceedings, adding:

> "It seems to me as plain as a pikestaff that the object of the notice is to bring to the tenant's notice the defect of which complaint is made to enable him to make a proper restitution before proceedings are brought and to enable him to deal with that."

That I have no difficulty with: the purpose of the notice is to give the tenant information so that they can deal with the situation as best they can. That is not the same as demanding that the tenant do anything in particular.

41. Similarly in *Mountain v Hastings* (1993) 25 HLR 427 at 433 Ralph Gibson LJ, referring to *Torridge DC v Jones*, said that the purpose of a s. 8 notice was:

> "to give to the tenant the information which the provision requires to be given in the notice to enable the tenant to consider what she should do and, with or without advice, to do that which is within her power and which will best protect her against the loss of her home."

Similar statements can be found in the judgment of Aldous LJ in *Kelsey Housing Association v King* (1995) 28 HR 270 at 275:

> "The purpose of the requirement of statutory notice is to enable the relevant party to take steps to remedy the complaints so that he can be in as good a position as possible to avoid eviction"

and in the judgment of Arnold LJ in the more recent case of *Pease v Carter* [2020] EWCA Civ 175 at [52]:

> "In other words, the purpose of the requirement for at least two weeks' notice is to give the tenant time to take steps to deal with the threatened proceedings, eg by trying to pay off arrears of rent, taking advice, obtaining representation and/or seeking alternative accommodation."

42. I have no difficulty with any of these statements. They all indicate that the purpose of the notice is to give the tenant information, and an opportunity to address the particular matters complained of in the s. 8 notice. In a rent case that no doubt includes doing what the tenant can to pay off the arrears and get the rent account up to date. But none of that means that the notice requires or demands that the tenant do anything.

43. In my judgment therefore HHJ Lethem was right to conclude that a s. 8 notice based on arrears of rent is not a demand for rent within the meaning of s. 47 of the 1987 Act. It is not necessary to refer in any detail to the reasons he gave: in essence they are similar to those I have given above.

44. That makes it unnecessary to decide what the effect would have been had the s. 8 notice in the present case been a demand for rent. It is, as I have said, accepted that in such a case the notice would not have complied with the requirement in s. 47(1) that it contain the name and address of the landlord, but it is unclear what the consequence of such non-compliance would be. It is an oddity of s. 47 that it undoubtedly applies to demands for rent as well as demands for service charges and other sums payable under the terms of the tenancy (see s. 47(4)), but the only express sanction for non-compliance is that in s. 47(2), which provides that any part of the amount demanded which consists of a service charge or an administration charge shall be treated as not being due. That can be contrasted both with s. 48 under which the effect of non-compliance is expressly extended to rent, and with the recommendation of the Nugee Committee which had not made any such distinction between rent and service charges (paragraph 30 above).

45. It is therefore an inescapable inference that Parliament deliberately excluded rent from s. 47(2) and intended that rent should remain due despite a demand for rent not complying with s. 47(1), as Mr Vanhegan accepted. (We have not seen any material on the passage of the legislation through Parliament, and have no information as to when or why this was done). There is usually of course no requirement that rent be demanded before it falls due – it falls due simply under the terms of the tenancy (and indeed, as Henderson LJ pointed out in argument, rent has a special quality, being regarded historically as "issuing out of the land" and akin to real property) – and Mr Vanhegan accepted that once rent had become due, the service of a demand which did not comply with s. 47 did not suspend the liability to pay it.

46. But that still leaves entirely unclear what the effect of s. 47 is on a non-compliant demand for rent. The choice would appear to be between (i) accepting that there were no consequences at all, which would render s. 47(1) merely aspirational in the case of demands for rent; or (ii) accepting that although the non-compliance did not affect the tenant's liability for rent, it did, albeit without the Act expressly saying so, prevent the demand for rent from having any other effect – in this case, operating as an effective notice under s. 8 of the 1988 Act. Neither of these seems very satisfactory. Since it does not arise in the present case, I prefer not to express a view on it and to leave it to be decided if it is ever necessary to do so.

47. For these reasons I would reject Ground 1.

Ground 2

48. Ground 2 is that Form 3 in the regulations required the landlord's own name and address to be provided. Again three questions arise under this ground:

    (1) Does Form 3 require the landlord's own name and address to be provided?

    (2) If so, was the s. 8 notice in this case "substantially to the same effect" as Form 3?

    (3) If not, what is the consequence?

    There was no dispute about the answer to this third question. If the s. 8 notice is not to substantially the same effect as Form 3, it is invalid. That means that Mrs Lakhany has not served a valid notice as required by s. 8(1)(a) of the 1988 Act. That does not prevent her from proceeding with her claim for possession, as s. 8(1)(b) enables the Court to dispense with the requirement of such a notice if it considers it just and equitable to do so. But by s. 8(5) the Court cannot do this if the landlord seeks to recover possession on Ground 8. The practical effect is that if the s. 8 notice were invalid, Mrs Lakhany would have to abandon Ground 8 and rely solely on Grounds 10 and 11, both of which are discretionary grounds. She would therefore have both to persuade the Court to dispense with the requirement for a notice under s. 8(1)(b) on the basis that it is just and equitable, and persuade the Court to make an order for possession on the basis that it is reasonable to do so. All of this is common ground, and it is also common ground that the question of whether it is just and equitable to dispense with the requirement of notice would not be a matter for us, but for the District Judge holding the substantive hearing.

49. I can express my views on the first question quite succinctly which is that in my judgment Form 3 does not require the landlord's own name and address to be provided. It is sufficient that the name and address of the person signing be provided, which may be, as in this case, the agent of the landlord.

50. My reasons can also be expressed quite shortly. Form 3 indicates where it should be filled in. It does so by dotted lines. Each of the 6 paragraphs contains such dotted lines. In each case there are instructions in italics to the person filling in the form, usually indicating what needs to be filled in. When one comes to paragraph 6 the instructions are:

    > "*To be signed and dated by the landlord or licensor or the landlord's or licensor's agent (someone acting for the landlord or licensor)….*"

    That is followed by dotted lines for the signature, followed by dotted lines for name, address and telephone. It is accepted by Mr Vanhegan that where the form is signed by an agent, the name, address and telephone number that should be filled in after the signature are those of the agent, not those of the landlord. (I agree that that is right, not least because the second bullet point of the concluding notes tells the tenant to tell the person signing the notice if they are prepared to leave.)

51. Mr Vanhegan's submission therefore involves the proposition that where an agent signs the form, as is expressly permitted, he should not only give his name and address in the dotted lines following his signature but should also give the landlord's

name and address. I do not myself think that any such requirement can be found in the form:

(1) There are no dotted lines where such name and address can be filled in, despite the fact that in every other instance where the form requires information to be added, there is a dotted line for that purpose.

(2) Although the form of Mrs Lakhany's s. 8 notice in fact has a slight gap below "Name and address of landlord/licensor*.", what is significant is not the appearance of her s. 8 notice, but that of the statutory Form 3. As can be seen, there is no such gap and no space anywhere on the form for this information to be included.

(3) There are no instructions in italics telling the person filling out the form to add the landlord's own name and address.

52. To these points can be added a few more, but these are largely by way of makeweight. First, the "Name and address of landlord/licensor*." ends with a full stop and not a colon. That looks more like a heading for the paragraph than an incompletely filled in part of the form. Mr Vanhegan pointed out that none of the other paragraphs contain such a heading, which is true, but I do not think this undermines the point.

53. Second, in the course of the hearing a question was raised as to whether any assistance could be obtained from the other forms in the regulations. In principle I agree that they are admissible as a potential aid to interpretation being part of the same statutory instrument (technically the current version of Form 3 was added by subsequent amending regulations, but on the relevant point the original Form 3 was in identical form). This exercise produced some points for both sides: Mr Vanhegan pointed to a number of forms (Nos 2, 4, 5 and 6) where there is express reference to details of the "landlord(s) / agents" and the like; Mr Jones pointed to the fact that paragraph 6 in Form 3 is similar to Form 1 paragraph 5 and Form 9 paragraph 4, including in each case the lack of a gap between the heading and the space for signature. But the most telling point, which I think does give some support to the view I take, is that in every case where it is clear that a form requires a name and address to be given, there is a delineated space for this to be done, with "Name" and "Address" and dotted lines. Examples can be found in Form 7 paragraph 2 and Form 8 paragraph 5. Nowhere in the 10 forms can there be found an example where a name and address is clearly intended to be given without "Name" and "Address" and dotted lines.

54. Mr Vanhegan said that it was important for a tenant receiving a s. 8 notice not only to know that proceedings were being threatened but also who was threatening them, not least because if a tenant wished to pay off arrears, they needed to know that they were being paid to the correct landlord. I have some sympathy with that view, and it has a particular resonance in a case like the present where there is an uncertainty over who Ms Prempeh's current landlord actually is (although here Ms Prempeh in fact knew that Philip Ross were acting for Mrs Lakhany as their covering letter told her that, and the lack of an address is of far less practical significance). But in the vast majority of cases it is difficult to suppose that this will give rise to real problems. If the tenant is unclear who is giving the s. 8 notice, they will no doubt contact the agent who signed and ask them. One would not have thought the agent would have any reason not to

tell them, not least because the position would become clear once the claim form was issued and served in any event; and even more so if the tenant wanted to discuss payment of the arrears.

55. There is to my mind one further consideration of some potential significance, although I mention it with diffidence because it did not in fact feature in the argument. This is that the forms are evidently designed to be capable of being used by ordinary citizens without the benefit of professional advice: that is apparent for example by the explanation of what it is for a person to act as agent of another, which would be unnecessary if it was expected that those using the forms would always have the benefit of lawyers. That explains why the forms indicate in non-technical language what the person filling them in needs to do.

56. If however Mr Vanhegan is right and the form requires the landlord's own name and address to be given, even where an agent (who need not of course be a professional agent) has signed for the landlord, then it seems to me that the form would be a trap for the unwary. If we read the form as requiring this, then those who are professionally advised will no doubt usually get it right, but those who are not may easily make the mistake of thinking that they need only give their agent's name and address and then find that they lose perfectly sound claims for possession against defaulting tenants for want of something that may very well in the particular case be a purely formal defect that has not in fact caused the tenant any prejudice at all. In my view we should be slow to do that.

57. In my judgment therefore Form 3 does not require the landlord's own name and address in the case where it is signed by the landlord's agent. In those circumstances the question whether Mrs Lakhany's s. 8 notice would have been to substantially the same effect as Form 3 had I taken the opposite view does not arise and I do not propose to express a view on it.

58. I would therefore reject Ground 2 as well, and dismiss the appeal.

Lord Justice Henderson:

59. I agree.

Lord Justice David Richards:

60. I also agree.

FORM No. 3

Housing Act 1988 section 8, as amended by section 151 of the Housing Act 1996, section 97 of the Anti-Social Behaviour, Crime and Policing Act 2014, and section 41 of the Immigration Act 2016

FORM 3

Notice seeking possession of a property let on an Assured Tenancy or an Assured Agricultural Occupancy

Housing Act 1988 section 8 as amended by section 151 of the Housing Act 1996 and section 97 of the Anti-social Behaviour, Crime and Policing Act 2014

- Please write clearly in black ink.
- Please cross out text marked with an asterisk (*) that does not apply.
- This form should be used where possession of accommodation let under an assured tenancy, an assured agricultural occupancy or an assured shorthold tenancy is sought on one of the grounds in Schedule 2 to the Housing Act 1988.
- Do not use this form if possession is sought on the "shorthold" ground under section 21 of the Housing Act 1988 from an assured shorthold tenant where the fixed term has come to an end or, for assured shorthold tenancies with no fixed term which started on or after 28th February 1997, after six months has elapsed. Form 6A 'Notice seeking possession of a property let on an Assured Shorthold Tenancy' is prescribed for these cases.

1 To:.....

*Name(s) of tenant(s)/licensee(s)**

2 Your landlord/licensor* intends to apply to the court for an order requiring you to give up possession of: .....
.....
.....
.....

Address of premises

3 Your landlord/licensor* intends to seek possession on ground(s) ..... in Schedule 2 to the Housing Act 1988 (as amended), which read(s): .....
.....
.....
.....

Give the full text (as set out in the Housing Act 1988 (as amended) of each ground which is being relied on. Continue on a separate sheet if necessary.

4 Give a full explanation of why each ground is being relied on: .....
.....
.....
.....

Continue on a separate sheet if necessary.

Notes on the grounds for possession

- If the court is satisfied that any of grounds 1 to 8 is established, it must make an order (but see below in respect of fixed term tenancies).
- Before the court will grant an order on any of grounds 9 to 17, it must be satisfied that it is reasonable to require you to leave. This means that, if one of these grounds is set out in section 3, you will be able to suggest to the court that it is not reasonable that you should have to leave, even if you accept that the ground applies.
- The court will not make an order under grounds 1, 3 to 6, 9 or 16, to take effect during the fixed term of the tenancy (if there is one) and it will only make an order during the fixed term on grounds 2, 7, 7A, 8, 10 to 15 or 17 if the terms of the tenancy make provision for it to be brought to an end on any of these grounds.

- Where the court makes an order for possession solely on ground 6 or 9, the landlord must pay your reasonable removal expenses.

5 The court proceedings will not begin until after: .....

.....

Give the earliest date on which court proceedings can be brought

Notes on the earliest date on which court proceedings can be brought

- Where the landlord is seeking possession on grounds 1, 2, 5 to 7, 9 or 16 (without ground 7A or 14), court proceedings cannot begin earlier than 2 months from the date this notice is served on you and not before the date on which the tenancy (had it not been assured) could have been brought to an end by a notice to quit served at the same time as this notice. This applies even if one of grounds 3, 4, 8, 10 to 13, 14ZA, 14A, 15 or 17 is also specified.
- Where the landlord is seeking possession on grounds 3, 4, 8, 10 to 13, 14ZA, 14A, 15 or 17 (without ground 7A or 14), court proceedings cannot begin earlier than 2 weeks from the date this notice is served. If one of 1, 2, 5 to 7, 9 or 16 grounds is also specified court proceedings cannot begin earlier than two months from the date this notice is served.
- Where the landlord is seeking possession on ground 7A (with or without other grounds), court proceedings cannot begin earlier than 1 month from the date this notice is served on you and not before the date on which the tenancy (had it not been assured) could have been brought to an end by a notice to quit served at the same time as this notice. A notice seeking possession on ground 7A must be served on you within specified time periods which vary depending on which condition is relied upon:
  - Where the landlord proposes to rely on condition 1, 3 or 5: within 12 months of the conviction (or if the conviction is appealed: within 12 months of the conclusion of the appeal);
  - Where the landlord proposes to rely on condition 2: within 12 months of the court's finding that the injunction has been breached (or if the finding is appealed: within 12 months of the conclusion of the appeal);
  - Where the landlord proposes to rely on condition 4: within 3 months of the closure order (or if the order is appealed: within 3 months of the conclusion of the appeal).
- Where the landlord is seeking possession on ground 14 (with or without other grounds other than ground 7A), court proceedings cannot begin before the date this notice is served.
- Where the landlord is seeking possession on ground 14A, court proceedings cannot begin unless the landlord has served, or has taken all reasonable steps to serve, a copy of this notice on the partner who has left the property.
- After the date shown in section 5, court proceedings may be begun at once but not later than 12 months from the date on which this notice is served. After this time the notice will lapse and a new notice must be served before possession can be sought.

6 Name and address of landlord/licensor*.

To be signed and dated by the landlord or licensor or the landlord's or licensor's agent (someone acting for the landlord or licensor). If there are joint landlords each landlord or the agent must sign unless one signs on behalf of the rest with their agreement.

Signed ..... *Date* .....

.....

.....

Please specify whether: landlord / licensor / joint landlords / landlord's agent

Name(s) (Block Capitals) .....

.....

Address .....

.....

.....

Telephone: Daytime ..... *Evening*.....