



SHIP  
1A Eros House  
Brownhill Road  
Catford  
SE6 2EG

Mr Gintaras Valatka  
Sent By E-Mail

Direct Line: 0208 314 3898  
Fax:

14<sup>th</sup> February 2018

Dear Mr Valatka,

**Re: Decision on Homelessness Application – Section 184 of the Housing Act 1996, Part VII (as amended)**

I refer to your application for assistance from this Authority under Part V11 of the Housing Act 1996.

As required by section 184 (3) of the Act, I am writing to inform you that appropriate enquiries concerning your housing circumstances have been completed and a decision reached concerning your homeless application.

**You are not eligible for assistance**

This is because, under section 185 of the Housing Act 1996, people who are subject to immigration control are not eligible. You are subject to immigration control, and do not fall within any of the exceptions in regulation 5 of the Allocation of Housing and Homeless (Eligibility) (England) Regulations 2006.

We have considered all of the information we have on file about your circumstances, and have had regard to the Homelessness Code of Guidance for Local Authorities.

You were interviewed on the 5<sup>th</sup> of September 2017, and we have investigated your claim of homelessness from 22A Camplin Street, New Cross, London, SE14 5QY and are satisfied that you are homeless. However, this Authority has concluded that you are ineligible for housing assistance therefore we have no duty to assist you under the above Act.

**This decision is based on the fact that you are an EEA national residing in the United Kingdom but not exercising your treaty rights.**

You stated you are self employed and have run your own business for 6 years, however despite numerous requests and opportunities for you to provide us with proof, you have refused to do so.

You have failed to provide me with any evidence of your self-employment status such as your company's certificate of incorporation, VAT registration certificate, business insurance certificate, proof of a business bank account, contact details of your accountant, proof of tax returns, any submissions to HMRC, details of any clients or invoices from business suppliers.

**You have instead just refused to provide any information at all.**

When asked why you were not co-operating you chose to offer what I consider to be poor excuses. Your excuses have ranged from accusing the council of making you homeless, alleging misconduct amongst officers, and discrimination against you by government officials. I am at a loss as to what this actually has to do with providing the information that was requested of you.

### **Why this means you are not eligible for housing assistance**

Broadly, the following nationals of the European Economic Area have the right to reside in the United Kingdom, are not subject to immigration control and are eligible for housing assistance:

- workers and self-employed persons and their near family
  - retired workers and their family
  - family of a deceased worker or self-employed person
  - self-sufficient persons, students and people with a permanent or retained right of residence who are habitually resident here.
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- The following EEA nationals may have the right to reside in the UK, and not be subject to immigration control, but not be eligible for housing assistance:
    - jobseekers
    - those who entered the UK in the last three months
    - self-sufficient persons, students and people with a permanent or retained right of residence who are not habitually resident here
    - their family, or the wider family of a worker or self-employed person, who are not habitually resident here

Other EEA nationals who do not fall within any of these descriptions do not have a right to reside in the UK and are therefore subject to immigration control.

As an EEA national from Lithuania you have a right to reside in the UK derived from Article 45 of the Treaty on the functioning of the European Community which provides for freedom of movement for workers and self employed persons between EEA states.

### **In making the decision, I have considered the following information:**

- That you are an EEA national who is not working and despite your claim of being self employed, you have not been able to provide any evidence of this.

## **Retention of worker status**

A person who is no longer working does not cease to be treated as a 'worker' for the Purpose of regulation 6(1) (b) of the EEA Regulations, if he or she:

(A) is temporarily unable to work as the result of an illness or accident; or  
(B) is recorded as involuntarily unemployed after having being employed in the UK, provided that he or she has registered as a jobseeker with the relevant employment office, and:

- (i) Was employed for one year or more before becoming unemployed, or
- (ii) Has been unemployed for no more than 6 months, or
- (iii) Can provide evidence that he or she is seeking employment in the UK and Has a genuine chance of being engaged; or

(C) is involuntarily unemployed and has embarked on vocational training; or

(D) Has voluntarily ceased working and embarked on vocational training that is related to his or her previous employment.

This means that as an EEA national, unless you are working lawfully and your employment is subject to National insurance and Income Tax, you are self-employed or economically active, or you have a history of having worked and retained your worker's status, or you have been lawfully resident in the UK for a period of not less than five years, there will be no duty on the part of a Local Authority to provide accommodation if homeless

Having had regard to the Homeless code of guidance to Local Authorities as quoted above, I am satisfied that you have not retained your worker's status, neither are you temporarily out of work as a result of an illness or accident.

I am satisfied that you are not a self-employed person. A self-employed person is a person who establishes him or herself in another EEA state in order to pursue activity as self-employed person in another EEA State. As said earlier you advised us that you are self employed but have refused to provide the evidence despite the numerous opportunities that you were given to do so.

I am also satisfied that you are not a family member of an EEA national exercising their treaty rights in the UK.

In relation to a self – sufficient person, I am satisfied that you are not self-sufficient. A person who is self-sufficient is a person who has sufficient resources not to become a burden on the social assistance system. I again re-iterate my earlier point that you have not provided any evidence to satisfy us that you are self sufficient.

My decision that you are not eligible is also strengthened by the fact that you recently made a claim for housing benefit and were rejected on the grounds that you were deemed to be not eligible for any state benefits.

**Therefore I am satisfied that you are subject to immigration control, and do not fall within any of the exceptions in regulation 5 of the Allocation of Housing and Homeless (Eligibility) (England) Regulations 2006.**

You are therefore not eligible for housing assistance under section 185 of the Housing Act 1996, which says that people who are subject to immigration control are not eligible for housing assistance.

**The council is unable to offer you housing assistance at this time.**

This decision means that the Council does not have a duty to house you permanently but it does have a duty to provide you with advice and assistance to help you find your own accommodation.

You have already been offered advice on how you can secure accommodation in the private sector, claiming housing benefit and state other benefits, you then even met with Chris Horn, SHIP team leader on 13<sup>th</sup> February 2018 and it was suggested to you that you could exercise your treaty right now by obtaining work which would negate the need to fight the DWP through appeal for benefits, and actually help you move forward.

You advised Chris that you have absolutely no intention of obtaining work and were adamant that you are willing to take the DWP to European Court instead. This is even further evidence that you have no intention to exercise your treaty rights despite all the extensive advice you have received.

The Council has assessed your needs and concluded that your housing needs are not exceptional or peculiar and can be met by mainstream accommodation in the private sector. The Council has a duty under section 190(2) to provide you with, or ensure that you are provided with, advice and assistance that will give you a reasonable opportunity of securing accommodation for your occupation.

Accordingly, the Council is satisfied, in consideration of your personal circumstances, that a further 28 day period of temporary accommodation is reasonable in your case. The Council has considered the length of time you have occupied your current temporary accommodation in arriving at this notice period.

Please note that you are being given 28 days' notice from the date of this decision to leave your current temporary accommodation Room 603, Miriam Lodge, 185 Dartmouth Road, Sydenham, SE26 4RQ

Your last night at the accommodation will be **Tuesday 13th March 2018**

**Requesting a review of the Council's decision.**

You can request a review of this decision under section 202 of the Housing Act 1996 within 21 days of the date of this decision.

You can either do it by post to:  
The Reviews Team  
London Borough of Lewisham  
1a Eros House  
London  
SE6 2EG

**Or by e-mail to [housingreviews@lewisham.gov.uk](mailto:housingreviews@lewisham.gov.uk)**

If you don't fully understand our decision or the reasons for it or you have any other queries please do not hesitate to contact me on telephone number 0208 314 7713.

Alternatively you can seek independent legal advice.

Yours sincerely



**Timothy Odofin**

Prevention and Support Officer  
SHIP Team

