



**DECISION AND STATEMENT OF REASONS OF JOSEPHINE BONNAR,
LEGAL MEMBER OF THE FIRST-TIER TRIBUNAL WITH DELEGATED
POWERS OF THE CHAMBER PRESIDENT**

**Under Rule 5 of the First-tier Tribunal for Scotland Housing and Property
Chamber Rules of Procedure 2017 ("the Rules")**

in connection with

6 Milncroft Farm, Millcroft Road, Luggiebank, Cumbernauld ("the property")

Case Reference: FTS/HPC/CV/20/0086

**Jane Sharkey, 9 Cumbernauld House, Wilderness Brae, Cumbernauld ("the
Applicant")**

Tracy Connolly, Address Unknown ("the Respondent")

1. By application received on 10 January 2020 the Applicant seeks a payment order in terms of Rule 111 of the Rules. In the application, the Respondent's address is stated as "unknown".
2. On 14 January 2020 the Tribunal issued a letter to the Applicant advising that the application was incomplete and that she should provide an address for the Respondent or make an application for service by advertisement, if the address is unknown. No response was received. On 4 February 2020 a further letter was sent to the Applicant advising that the application could not proceed without an address, or an application for service by advertisement, which should be accompanied by evidence of attempts to obtain an address, such as a trace carried out by a Sheriff Officer. In response the Applicant advised that she had been unable to obtain an address after "trying all avenues". On 2 March and 24 July 2020 further letters were issued advising the Applicant that

she had to make an application for service by advertisement if the application was to proceed. On 27 July 2020 she responded saying that she would be in touch when she had an address. On 1 September 2020 the Applicant was notified that she had a further 14 days to make an application for service by advertisement or the application may be rejected. No response has been received.

DECISION

3. The Legal Member considered the application in terms of Rule 5 of the Chamber Procedural Rules. That Rule provides:-

“

(4) Where the address of a party is not known to the person making an application under these Rules, the applicant must state this in the application and complete a request for service by advertisement in accordance with paragraph 5.

(5) Any request for service by advertisement must provide details of any steps taken to ascertain the address of the party and be accompanied by a copy of any notice required under these rules which the applicant attempted to serve on the other party and evidence of attempted service.

(6) The First-tier Tribunal may direct any further steps which should be taken before the request for service by advertisement will be granted. “

4. After consideration of the application, the supporting documentation and correspondence from the Applicant, the Legal Member considers that the application should be rejected on the basis that the Applicant has failed to comply with Rule 5(4), (5) and (6).

Reasons for Decision

5. In the application submitted to the Tribunal the Applicant states that the

Respondent's address is unknown. However, she did not submit an application for service by advertisement, as required by Rule 5(4). On 13 February and 27 July 2020, the Applicant confirmed that she does not know the Respondent's address. On 14 January, 4 February, 2 March, 24 July and 1 September 2020 the Applicant was directed by the Tribunal to make an application for service by advertisement, and provide evidence of attempts to obtain an address. She has failed to do so.

6. As the Applicant has failed to provide an address for the Respondent or make an application for service by advertisement, the Legal Member determines that the application cannot be accepted. The application is rejected on that basis.

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.

Josephine Bonnar
Legal Member
23 September 2020