



**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

23 Elms Way, Ayr, KA8 ("the property")

Case Reference: FTS/HPC/CV/20/1004

**Adrian Pelosi, Alison Pelosi 5 Castle View Court, Cousland, Dalkeith, EH22 2RE
("the Applicants")**

Steven Bailey, Address Unknown ("the Respondent")

1. By application received on 18 March 2020 the Applicant seeks a payment order in terms of Rule 111 of the Rules. A copy tenancy agreement and rent statement were lodged in support of the application. In the application form the Respondent's address is stated as "unknown".
2. On 12 May 2020 the Tribunal issued a letter to the Applicants advising that they had to provide a current address for the Respondent or, if they did not have an address, that they had to complete an application for service by advertisement and provide a report from a tracing agent or Sheriff Officer. On 18 May 2020 the Applicants responded confirming that they did not have an address, but wanted to proceed with the application. On 1 June 2020 the Tribunal issued a further email to the Applicants directing them to complete an application for service by advertisement and provide a trace report from a Sheriff Officer by date 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:-

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(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(6).

Reasons for Decision

5. The Applicants have not submitted an application for service by advertisement or provided any evidence of attempts to obtain a current address for the Respondent. On 12 May and 1 June 2020 the Tribunal directed the Applicants to complete a service by advertisement application form and provide a trace report from a tracing agent or Sheriff Officer to support that application. The Applicant has failed to make an application for service by advertisement or provide the evidence requested. They have also failed to respond to request for further information from the Tribunal. 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
20 July 2020