



**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

Flat 1/1, 3 Oatland Square, Glasgow ("the property")

Case Reference: FTS/HPC/EV/20/0158

Sufian Ahmed, 2 Hickman Street, Glasgow ("the Applicant")

Shangda Chen, Address Unknown ("the Respondent")

1. By application received on 20 January 2020 the Applicant seeks an eviction order in terms of Rule 109 of the Rules. A copy tenancy agreement and Notice to leave were lodged in support of the application. In the application the Respondent's address is stated as "unknown". The Applicant also submitted an application for service by advertisement.
2. The Tribunal issued a letter to the Applicant advising that the application was incomplete and that he should provide evidence of the eviction grounds stipulated in the application form, evidence of service of the Notice to leave and a copy of the Section 11 Notice sent to the Local Authority. The Applicant responded stating that he wished to apply for service by advertisement of the Notice to leave, as the Respondent had not resided at the property since 5 December 2019 when the property had been boarded up by the Police. A further letter was issued to the Applicant advising that he should provide information regarding his attempts to serve the Notice to Leave by email, as

the tenancy agreement made provision for this. The Applicant provided this information but advised that he understood the Respondent's email address to be false. On 2 June 2020 the Tribunal wrote to the Applicant to advise that the Applicant required to provide a report from a tracing agent or Sheriff Officer in connection with the request for service by advertisement. He was also advised that a new Notice to leave would be required. In his response the Applicant provided a new Notice to leave, but did not provide a trace report. A further letter was issued to him directing him to provide a trace report and also advising that a new notice was required as the dates specified in the Notice submitted were incorrect. On 26 June 2020 the Applicant advised that he could not provide a trace report. A further letter was issued on 28 June 2020 stating that the report was required in connection with the application for service by advertisement. On 14 July 2020 the Applicant responded stating that he could not provide a trace report. He advised that he was making enquiries with the police regarding the Respondent's address. On 15 July the Applicant was directed to provide a trace report and a new notice to leave by 29 July 2020 or the application for service by advertisement may be refused and the application rejected. On 30 July 2020 the Applicant responded to advise that he was still waiting for information from the police.

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 Applicant submitted an application for service by advertisement in relation to the Notice to leave to be served on the Respondent. On 2 June, 16 June, 28 June and 14 July 2020 the Applicant was directed by the Tribunal to provide a trace report from a tracing agent or Sheriff Officer as evidence of attempts to obtain an address for the Respondent. The Applicant has failed to do provide the report.
6. As the Applicant has failed to provide the evidence required of his attempts to obtain a current address, and as the Legal Member determines that the application for service by advertisement cannot be granted in the absence of this evidence, 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
10 August 2020