



**Decision Under Rule 8(1)(c) of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the Rules”) by a Legal Member with delegated powers from the Chamber President**

Case reference FTS/HPC/CV/24/1572

**Parties**

**Vincent Ojo (Applicant)**  
**Andrew Floras, Karlene Hibbert (Respondent)**

**17/4 Ferry Road Avenue, Edinburgh, EH4 4BE (House)**

1. By application received by the Tribunal on 9 April 2024 the Applicant sought an order for payment against the Respondent under Rule 111 of the First Tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the Rules”). The Applicant also submitted an application for service by advertisement on the Respondent on the basis that their whereabouts were unknown. The application was conjoined with a separate application under rule 103 involving the same parties and same tenancy.
2. Following receipt of the application the Tribunal wrote to the Applicant by email on 12 April 2024 regarding his application for service by advertisement. The Tribunal noted the steps taken by the Applicant to locate the Respondent involved a search of the landlord register. The Tribunal advised that the Applicant required to make attempts to trace the Respondent in the form of a trace report. The Tribunal therefore requested the Applicant provide a further application for service by advertisement accompanied by a trace report. On 25 April 2024 the Applicant submitted a second application for service by advertisement which stated that, in addition to a search of the landlord register, he had made attempts to locate the Respondents via a search of social media.
3. On 30 April 2024 the Tribunal wrote to the Respondent stating *“In both applications you have asked for service by advertisement. As advised in previous emails, such an application requires to be accompanied by a report from a sheriff officer or tracing agent stating that they have been unable to trace an address for the Respondent. Please instruct a trace and submit the report then provided by the tracing agent / sheriff officer with the application for permission to serve by advertisement.”* On 1 May 2024 the Applicant responded to advise that he had tried to reach out to some tracing agents but the costs were prohibitive and he was looking for an alternative option from the Tribunal.

The Applicant emailed the Tribunal again on 2 May 2024 to advise that he believed he had found an address and he was going to make investigations to confirm that the Respondent was residing there. On 3<sup>rd</sup> May 2024 the Tribunal emailed the Applicant asking him to provide an address for the Respondent. The Applicant responded by email on 14 May 2024 with details of the address.

4. On 15 May 2024 the Tribunal emailed the Applicant stating *“You have provided an address but do not indicate whether that address relates to Mr Flores or Miss Hibbert. You also need to clarify which of them is intended to be the respondent in these applications or whether you wish both of them to be the respondents.”* The Applicant responded that same day by email advising that the address was for Mr Flores and he had never met Miss Hibbert, and was unaware that she was the property owner.
5. On 16 May 2024 the Tribunal emailed the Applicant stating *“As previously advised, you have provided no evidence that Mr Floras has any connection with the property. He is not the registered landlord and you have not provided a tenancy agreement. According to Registers of Scotland the owner is Karlene Hibbert. Usually, the owner and landlord of the property are one and the same unless, for example, the tenancy is a sub-let. You have indicated that you only wish to pursue the applications against Mr Flores. If the applications are accepted on that basis, they may be unsuccessful if it turns out that he is not the landlord. Furthermore, you will be unable to amend the Rule 103 application or make a new Rule 103 application against Ms Hibbert at a later stage as the time bar will apply.”* The Applicant responded by email on 17 May 2024 advising that he had contacted sheriff officers to assist in obtaining an address for Karlene Hibbert and would revert back in due course.
6. On 21 May 2024 the Tribunal emailed the Applicant stating *“For the application under rule 111 the Tribunal will hold the application until you are able to provide the address or a negative trace report for Ms Hibbert. Please confirm that you will provide this even if it is not available by 2.6.24. It is the responsibility of the Applicant to provide all necessary details for a valid application.”* The Applicant emailed the Tribunal on 27 May 2024 explaining that there had been no progress but he would provide an update in due course.
7. On 12 June 2024 the Tribunal emailed the Applicant seeking an update. On 25 June 2024 the Applicant responded stating that he had heard nothing further from the sheriff officers despite sending emails, which he attached for reference.
8. On 19 July 2024 the Tribunal emailed the Applicant stating *“As previously advised, your application cannot progress without an address for Ms Hibbert or a negative trace report and application for service by advertisement. We note that you have not received a response from sheriff officers despite having sent a message over 2 months ago. You may wish to consider instructing alternative sheriff officers so that your application can progress. Please advise how you intend to proceed.”* The Tribunal requested a response by 2 August 2024. The Tribunal further advised that in the absence of a response the application may be rejected.

9. The Tribunal received no response from the Applicant. On 26 August 2024 the Tribunal wrote again to the Applicant by email requesting an address for the Respondent, or an application for service by advertisement accompanied by a trace report. The Applicant was asked to provide the information no later than 9 September 2024, failing which his application would be rejected. The Tribunal suggested the Applicant may wish to seek advice from a solicitor or advice agency if he required guidance regarding his application. There was no further response from the Applicant.
10. Rule 8(1)(c) of the Rules allows an application to be rejected by the Chamber President if "they have good reason to believe that it would not be appropriate to accept the application". The Applicant has failed to provide the information requested by the Tribunal which is required for the application to proceed. The Tribunal cannot entertain an application in the absence of an address for the Respondent, or a complete application for service by advertisement. Without this information the Tribunal cannot fulfil its obligations under the Rules to effect service of the application paperwork on the Respondent. The Applicant has been asked for this information on numerous occasions but has failed to provide same. He had been made aware of the consequences of not providing the information. Accordingly in the absence of any further information from the Applicant it would not be appropriate to accept the application and the application must be rejected.

**NOTE:** What you should do now.

If you accept this decision there is no need to reply. If you disagree with this decision you should note the following: An Applicant aggrieved by this 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 seek permission to appeal within 30 days of the date the decision was sent them. Information about the appeal procedure can be forwarded on request.

**Ruth O'Hare, Legal Member**  
**3 October 2024**