



**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 5, 52 Whifflet Street, Coatbridge ("the property")

Case Reference: FTS/HPC/CV/20/1315

**Broad Property Investments Ltd, c/o Morrison & Smith, Solicitors, 39 High
Street, Carlisle ("the Applicant")**

Sean Watt, current address unknown ("the Respondent")

1. By application received on 20 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 the Respondent's address is stated as 15 Duntarvie Crescent, Easterhouse (last known address). On 25 June 2020 a further information request was issued to the Applicant. In particular, the Applicant was asked to clarify whether the address provided for the Respondent is his current address. If not, the Applicant was directed to apply for service of the application by advertisement in terms of Rule 6A of the Rules and to provide evidence of attempts to obtain an address in connection with this application, such as a trace carried out by a Sheriff Officer. No response was received. On 6 August 2020 a further letter was issued directing the Applicant to provide a response to the letter of 25 June 2020 by 20 August 2020, or the application may be rejected. No response has been received.

DECISION

2. 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. “

3. 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

4. The application lodged by the Applicant provides an address for the Respondent which is described as his “last known address”. On two occasions the Tribunal has written to the Applicant seeking clarification of the address and directing the Applicant to apply for service by advertisement, if the current address is unknown. The Tribunal also directed the Applicant to provide evidence of attempts to obtain an address. No response has been received and the Applicant has failed to confirm the current address, make an application for service by advertisement or provide evidence of attempts to obtain a current address.

5. As the Applicant has failed to provide a current address for the Respondent, make an application for service by advertisement or provide evidence of his attempts to obtain a current address, having been directed to do so by 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

Josephine Bonnar
Legal Member
2 September 2020