



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

**Under Rule 8 of the First-tier Tribunal for Scotland Housing and Property  
Chamber Rules of Procedure 2017 ("the Procedure Rules")**

**in connection with**

**94 Land Street, Keith ("the Property")**

**Case Reference: FTS/HPC/CV/0054**

**William Hay, Drodland, Glen of Newhill, Keith ("the Applicant")**

**Nathan Ward, Address Unknown ("the Respondent")**

1. The Applicant lodged an application with the Tribunal seeking an order for payment in terms of Rule 111 of the Procedure Rules and Section 71 of the Private Housing Tenancies (Scotland) Act 2016. The application states that the Respondent's address is unknown. An application for service by advertisement was also lodged
2. On various occasions between 25 January and 5 May 2022, the Tribunal issued letters to the Applicant, directing him to provide a trace report from a tracing agent or Sheriff Officer as evidence of attempts to obtain an address. The Applicant initially responded, seeking time to obtain advice. Thereafter he failed to respond to letters issued on 24 February, 1 April and 5 May 2022, all notifying him that if he failed to provide the report, the application may be rejected.

## **Decision**

3. After consideration of the application the Legal Member considers that the application should be rejected in terms of Rule 8(1)(c) which states that an application must be rejected if the Tribunal has “ good reason to believe that it would not be appropriate to accept the application.”

## **Reasons for Decision**

4. The Applicant submitted an application for a Payment order in terms of Rule 111 of the Rules. The Applicant also submitted an application for service by advertisement in terms of Rule 5(4). Rule 5(5) stipulates that a request for service by advertisement must provide details of any steps taken to ascertain the address. In terms of Rule 5(6).” The First-tier Tribunal for Scotland may direct any further steps which should be taken before the request is granted,” The Applicant has been directed to submit a trace report from a Sheriff Officer in four letters from the Tribunal issued between 25 January and 5 May 2022. He has failed to respond or provide the report. In the circumstances, the Legal Member is satisfied that the application for service by advertisement should be refused.
5. In the absence of an address for the Respondent, as required by Rule 111, or the grant of an application for service by advertisement, the Legal Member is satisfied that there is good reason to believe that it would not be appropriate to accept the application. 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  
14 June 2022