



**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")**

147 Ivy Gardens, Paisley ("the Property")

Case Reference: FTS/HPC/CV/23/1393

O'Brien Homes Ltd, Address Unknown ("the Applicant")

Donna Harkins, Address Unknown ("the Respondent")

1. The Applicant seeks 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 2016 Act"). A tenancy agreement and rent statement were lodged with the application. The Applicant did not provide an address for the Applicant or the Respondent.
2. On 4 May, 13 June and 29 July 2023, the Tribunal issued requests for further information. The Applicant was directed to provide an address for the Applicant and the Respondent. They were advised that, if they were unable to provide an address for the Respondent, an application for service by advertisement was required together with a trace report from a Sheriff Officer. The Applicant has failed to respond or provide the information or documents requested.

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. Rule 5 of the Procedure Rules states that an application "is held to have been

made on the date that it is lodged if, on that date, it is lodged in the manner as set out in rules.....105 to 111, as appropriate”. In terms of Rules 5(2) and (3) the Chamber President or a Member with delegated powers must assess whether the “mandatory requirements for lodgement have been met” and “may request further documents”. Rule 5(4) and 5(5) require an Applicant to submit an application for service by advertisement where the address of the Respondent is not known, with evidence of attempts to obtain an address. Rule 111 requires an Applicant to provide an address for both Applicant and Respondent.

5. The Applicant has failed to comply with Rules 5 and 111 of the Procedure Rules. Furthermore, their failure to comply with the requirement to provide an address for the Respondent, or apply for service by advertisement, means that the application, if accepted, could not be served on the Respondent. In the circumstances, 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

Josephine Bonnar, Legal Member
31 August 2023