



**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**

**40 Ferryhill, Forres, Moray ("the property")**

**Case Reference: FTS/HPC/CV/20/0667**

**Cluny Properties, 91 High Street, Moray ("the Applicant")**

**Wayne Ingham, 25 Hall Street, Buckie, Samantha O'Keefe, Address Unknown  
("the Respondents")**

1. By application received on 25 February 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 Second Respondent's address is stated as unknown. On 27 February a letter was issued to the Applicant advising that an address was required or an application for service by advertisement should be submitted. On 28 February 2020 the Applicant submitted an application for service by advertisement.
2. On 24 April 2020, a letter was issued directing the Applicant to provide evidence of attempts to obtain an address for the Second Respondent, such as a trace report. The Applicant was to respond by 15 May 2020, or the application may be rejected. No response was received. On 8 July 2020 a further letter was issued directing the Applicant to provide the information and evidence by 22 July 2020, or the application may be rejected. No response has

been received.

## **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 (4) and (6).**

### **Reasons for Decision**

5. The Applicant submitted an application for service by advertisement in relation to the Second Respondent. On 24 April and 8 July 2020 the Applicant was directed by the Tribunal to provide information and evidence of attempts to obtain an address, such as a trace report. The Applicant has failed to do respond or provide the report.
6. As the Applicant has failed to provide the evidence required of his attempts to obtain a current address, having been directed to do so by the Tribunal, 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  
26 August 2020