



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

Under Rule 27 of the First-tier Tribunal for Scotland Housing and Property
Chamber Rules of Procedure 2017 ("the Procedural Rules")

in connection with

4 Urqhart Street, Dundee, DD1 5NL

Case Reference: FTS/HPC/CV/19/0508

Mrs Elena Maddox ("the applicant")

Struan Baptie Property Management Ltd ("the applicant's representative")

Mr Jody Gallagher ("the respondent")

1. On 15 February 2019, an application was received from the applicant. The application was made under Rule 70 of the Procedural Rules being an application for civil proceedings. The application was accepted on 28 February 2019.
2. However, when service of the application was attempted, it was discovered that the respondent had died. As such, the application was put on hold until 12 June 2019 to allow the applicant to consider her position and either (i) withdraw the application, or (ii) proceed with the application and seek such orders in that respect as she considered appropriate. No further information has been provided by the applicant or her representative. No

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motion has been received from the applicant or her representative.

DECISION

3. In terms of Rule 27 of the Procedural Rules:-

“27. – Dismissal of a party’s case

...(2) The First-tier Tribunal may dismiss the whole or part of the proceedings if the applicant has failed to—

...(b) co-operate with the First-tier Tribunal to such an extent that the First-tier Tribunal cannot deal with the proceedings justly and fairly.”

4. After consideration of the application, the attachments, the Case Management Discussion notes and correspondence, I consider that the application should be dismissed in terms of Rule 27(2)(b).

REASONS FOR DECISION

5. The applicant has been called upon to specify how she wished to proceed in the very unfortunate circumstances of this case. Having been given sufficient time to take legal advice and consider her options, she has chosen not to state her position to the Tribunal. In that regard, she has not co-operated with the Tribunal.

6. As a consequence of the applicant’s lack of co-operation, the Tribunal cannot progress this application justly or fairly. There is no respondent upon whom the application can be served, and no identification of any executor of the respondent to step in.

7. For those reasons, it is my view that the application ought to be dismissed under Rule 27. If the applicant wishes to pursue the respondent’s estate, she can raise fresh proceedings.

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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.

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Andrew Upton
Legal Member
28 June 2019