



**DECISION AND STATEMENT OF REASONS BY THE 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 Procedural Rules")

in connection with

41 Murray Terrace, Carnwath, Lanark, ML11 8HX

Case Reference: FTS/HPC/CV/19/1678

The Parties:-

**Mr Alasdair Smith and Mrs Jacqueline Smith, both residing at 130 Main Street,
Carnwath, Lanark, ML11 8HR (The Applicants)**

Smail and Ewart, 70 High Street, Lanark, ML11 7ES (The Applicants Agent)

**Mr Robert Lamberton, formerly residing at 41 Murray Terrace, Carnwath, Lanark
but whose present whereabouts are unknown (The Respondent)**

1. By application dated 31st May 2019 the Applicants applied to the Tribunal under Rule 70 of the Procedural Rules for an order for payment against the Respondent due to his failure to make payment of rent lawfully due. The Applicants sought the sum of £2975.
2. By letter dated 13 June 2019 the Tribunal wrote to the Applicants Agent requesting an application for service by advertisement on the basis that the Respondent's whereabouts were unknown. On 27th June 2019 the Applicant's Agent submitted an application for service by advertisement. The application stated that service of repossession notices had been attempted at the property address on 5th March 2019 however Sheriff Officers had been advised that the Respondent was no longer there. Neighbours advised he had moved to Glasgow to live with his girlfriend

however Sheriff Officers were unable to establish an address.

3. By letter dated 11th July 2019 the Tribunal wrote to the Applicants' Agent requesting further information to include a copy of the rent statement in relation to the tenancy, a copy of any demand letters issued to the Respondent and details of attempts to trace the Respondent following the attempted service by Sheriff Officers. The Applicants Agent was advised to provide the information by 25 July 2019, failing which the application may be rejected.
4. The Tribunal received no further correspondence from the Applicants Agent.

DECISION

5. The Legal Member determined to reject the application on the basis that she had good reason to believe that would not be appropriate to accept the application under Rule 8(1)(c) of the Procedural Rules.

REASONS FOR DECISION

6. The Legal Member considered the application together with the attachments and the subsequent correspondence to the Applicants Agent.
7. In this case the Applicants Agent had been asked to provide evidence of the arrears of rent together with requests for payment, as well as information on attempts to locate the Respondent which in the view of the Legal Member was fundamental in considering whether it would be in the interests of justice to allow service by advertisement. In the absence of a response from the Applicants the Legal Member therefore determined that the application could not be properly assessed and considered and therefore it would not be appropriate to accept the application. The application was therefore rejected under Rule 8(1)(c) of the Procedure Regulations.

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.

Ruth O'Hare
Legal Member
8th August 2019