



**DECISION AND STATEMENT OF REASONS OF ANDREW UPTON, 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

10 Aberfeldy Place, Kilmarnock, KA1 2SG ("the Property")

**Case Reference: FTS/HPC/CV/19/2305**

**Mr Andrew Shields ("the applicant")**

**Miss Lorraine Collins ("the respondent")**

**Lomond Estate Agents Ltd ("the applicant's representative")**

1. On 23 July 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 following documents were enclosed with the application:-
  - Copy Tenancy Agreement; and
  - Copy rent account statement.
2. The application does not specify an address for the respondent. The applicant's representative has lodged an application seeking permission to

serve the application by advertisement. In support of that application, the applicant's representative lodged a copy of the email correspondence with the respondent in terms of which the applicant's representative sought a forwarding address from the respondent. By letter dated 12 August 2019, the Tribunal intimated that this was insufficient to justify service by advertisement and requested that the applicant provide details of what other attempts had been made to trace the respondent. That information was to be supplied by 26 August 2019. No response was received. The Tribunal wrote to the applicant's representative again by letter dated 11 September 2019 seeking the same details by 25 September 2019. No response was received.

## DECISION

3. I considered the application in terms of Rule 8 of the Procedural Rules. That Rule provides:-

### *"Rejection of application*

8.—(1) *The Chamber President or another member of the First-tier Tribunal under the delegated powers of the Chamber President, must reject an application if –*

- (a) they consider that the application is frivolous or vexatious;*
- (b) the dispute to which the application relates has been resolved;*
- (c) they have good reason to believe that it would not be appropriate to accept the application;*
- (d) they consider that the application is being made for a purpose other than a purpose specified in the application; or*
- (e) the applicant has previously made an identical or substantially similar application and in the opinion of the Chamber President or another member of the First-tier Tribunal, under the delegated powers of the Chamber President, there has been no significant change in any material considerations since the identical or substantially similar application was*

*determined.*

*(2) Where the Chamber President, or another member of the First-tier Tribunal, under the delegated powers of the Chamber President, makes a decision under paragraph (1) to reject an application the First-tier Tribunal must notify the applicant and the notification must state the reason for the decision."*

4. After consideration of the application, the attachments and correspondence from the applicant, I consider that the application should be rejected on the basis that I have good reason to believe that it would not be appropriate to accept the application within the meaning of Rule 8(1)(c) of the Procedural Rules.

## **REASONS FOR DECISION**

5. The purpose of requesting the information sought from the applicant's representative was to determine whether it was reasonable to allow this application to be served by advertisement. By failing to respond, the applicant and the applicant's representative are not co-operating with the Tribunal process. This application cannot proceed without the Tribunal being given either (i) an address for the respondent, or (ii) good reason why permission should be granted to allow the application to be served by advertisement.
6. The applicant has been given two opportunities to provide the information necessary for the application to proceed. He has failed to do so. In all of the circumstances, it is not appropriate to accept the application. I therefore reject it.

## **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:-

A. Upton

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.

Andrew Upton |  
Legal Member  
14 October 2019