



**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")**

in connection with

32 Burngrange Cottages, West Calder ("the Property")

Case Reference: FTS/HPC/CV/22/2631

**Andrew Clarkson, c/o Jones Whyte, 105 West George Street, Glasgow ("the
Applicant")**

Colette Paton, Address Unknown ("the Respondent")

1. The Applicant lodged an application with the Tribunal seeking a payment order in terms of Rule 111 of the Procedure Rules and Section 71 of the Private Housing Tenancies (Scotland) Act 2016. In response to a request for further information, the Applicant advised the Tribunal that the property appeared to have been abandoned by the Respondent. On 30 November 2022, the Applicant was notified that a current address was required or an application for service by advertisement should be submitted with a trace report from a Sheriff Officer as evidence of attempts to obtain a current address. On 30 January 2023, the Applicant's representative notified the Tribunal that the Applicant had received a letter from the Respondent stating that she had moved out. The representative asked whether the related eviction application was still required. On 27 February 2023, the representative was notified that the Tribunal is unable to provide parties with legal advice and asked if the applications were

to proceed. On 2 March 2023, a further email was issued asking if the application was to proceed and directing the Applicant to submit an application for service by advertisement. The Applicant has not responded to this request or to a reminder sent on 27 April 2023.

Decision

2. 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

3. The Applicant submitted an application for a payment order in terms of Rule 111 of the Rules. Rule 111 requires the Applicant to provide an address for the Respondent. This is required for service of the application. In response to a request for further information, the Applicant stated that the Respondent no longer resides at the property but did not provide a current address. In terms of Rule 5(4) of the Procedure Rules, an Applicant must make an application for service by advertisement if they do not know the Respondent’s address. Rule 5(5) stipulates that a request for service by advertisement must provide details of any steps taken to ascertain the address. In terms of Rule 5(6).” The First-tier Tribunal for Scotland may direct any further steps which should be taken before the request is granted,” The Applicant has been directed to submit an application for service by advertisement with a trace report from a Sheriff Officer. He has failed to respond or provide the application or the report. The Applicant has also failed to confirm whether the application is to proceed or be withdrawn.
4. In the absence of an address for the Respondent, as required by Rule 111, or an application for service by advertisement, 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
5 June 2023