



DECISION AND STATEMENT OF REASONS OF NICOLA IRVINE, 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 Rules")

in connection with

Case Reference: FTS/HPC/PY/22/3335

Miss Selina Smith, 26 Glentanar Crescent, Dyce, Aberdeen, AB21 7LZ ("the Debtor")

Unknown ("the Creditor")

1. The Debtor submitted an application for a time to pay order in terms of Rule 41H of the Procedure Rules and Section 5 of the Debtors (Scotland) Act 1987. The Applicant did not provide details of the sum awarded, nor did she provide details of the Creditor.
2. The Tribunal issued a letter to the Debtor on 15 September 2022 indicating that the application appeared to be premature and requested a response by 29 September 2022. No response was received.

Decision

3. 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

4. The Debtor submitted the application for an order in terms of Rule 41H of the Procedure Rules and Section 5 of the Debtors (Scotland) Act 1987 (“the 1987 Act”).
5. Section 5(1) of the Debtors (Scotland) Act 1987 provides that an application for a time to pay order applies if one of the following has occurred:-
 - A charge for payment has been served on the debtor;
 - An arrestment has been executed; or
 - An action of adjudication for debt has commenced
6. As an application for time to pay can only be made once diligence has commenced, the Legal Member determines that it would not be appropriate to accept the application.

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.

N Irvine

Nicola Irvine
Legal Member
14 October 2022

