



**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 Rules")**

in connection with

Case Reference: FTS/HPC/PY/21/1196

Kulwant Kaur Sidhu, 32 Arisaig Drive, Bearsden ("the Debtor")

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 stated that a charge for payment had been served but did not confirm that she had served a copy of the application on the Creditor. No documents were submitted with the application.
2. The Tribunal issued a number of requests for further information to the Debtor. She provided responses to some of these requests and submitted copies of the payment orders, evidence of intimation of the application on the creditor's representative and a letter from the Creditors representative sent to her following the payment orders being issued by the Tribunal. The letter asks for payment proposals and states that the Creditor may instruct Sheriff Officers to enforce the order. Despite several requests, the Debtor did not provide a copy of the charge for payment referred to in the application form. .

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.” The basis of the decision is that the Debtor has failed to provide evidence that a charge for payment has been served.

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. Section 5(1) of the Act states that an application for a time to pay order can only be made after a charge has been served, an arrestment executed or an action for adjudication for debt has commenced. The Debtor has not provided any evidence that diligence had commenced. She has submitted a letter from the creditor’s representative, which states that Sheriff Officers may be instructed but no evidence that this has taken place. On several occasions, the Tribunal has written to the debtor directing her to provide evidence of service of a charge. She has failed to respond.
5. 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.

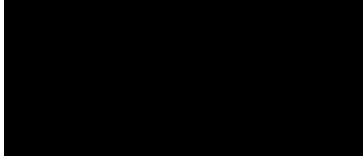
What you should do now

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.



Josephine Bonnar, Legal Member
15 December 2021