



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 5(2) of the Debtors (Scotland)
Act 1987**

Chamber Ref: FTS/HPC/PY/23/3410

Parties:

Muyiwa Olayiwola, 286 Union Grove, Ground Floor Right, Not Provided (“the Applicant”)

Alaturu Macpepple, 4 Fernhill Avenue, Bolton, BL3 4JS (“the Respondent”)

Tribunal Members:

Nicola Irvine (Legal Member) and Angus Lamont (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) refused the application for Time to Pay Order.

Background

1. On 5 July 2023, the Tribunal ordered the Applicant to pay the Respondent the sum of £1,377.25 in respect to an application for payment which proceeded under chamber reference FTS/HPC/CV/22/4359.
2. The Respondent served a charge for payment on the Applicant on 8 September 2023.
3. The Applicant submitted an application for a Time to Pay Order in terms of Section 5(2) of the Debtors (Scotland) Act 1987, offering payment within 7 months.
4. The Tribunal intimated the application to the parties by letter of 26 October 2023 and advised them of the date, time and conference call details of today’s case management discussion (“CMD”).

The case management discussion

5. The CMD took place by conference call. Both parties joined the call and represented themselves. The Applicant explained that he has secured another job which he is due to start in January and that should improve his financial position. He explained that he reached agreement with the Respondent to pay £100 per month towards the debt. The Respondent advised that although a discussion took place between the parties on 4 December 2023, no agreement was reached regarding repayment of the debt due.
6. The Respondent opposed the application. He explained that no payments have been made by the Applicant in the 5 months since the order was granted against him. No firm proposal has been made by the Applicant to repay the debt by monthly instalment.

Reason for Decision

7. The Tribunal proceeded on the basis of the documents lodged and the submissions made at the CMD. From the information provided in the application, it is clear that the Applicant's expenditure exceeds his income by £174 per month. The Applicant has also produced documentation indicating that he has a number of other debts and there is an earnings arrestment in force in relation to one of those debts. There was no evidence before the Tribunal about the anticipated income from the second job the Applicant intends to start in January. Based on the Applicant's present financial circumstances, it is unrealistic to expect that the Applicant can put money aside to pay the debt within 7 months. If the Tribunal granted the application, the Respondent would be prevented from taking further steps to enforce the debt, during which time enforcement action may be taken in relation to other debts due by the Applicant. In all of the circumstances, the Tribunal considered that it would be unreasonable to grant the application. The application for a time to pay order was therefore refused.

Right of Appeal

In terms of Section 46 of the Tribunal (Scotland) Act 2014, a party aggrieved by the decision of the Tribunal 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.

N. Irvine

Legal Member/Chair

5 December 2023

Date