

Housing and Property Chamber
First-tier Tribunal for Scotland



Decision with Statement of Reasons of Karen Moore, Legal Member of the Firsttier Tribunal with delegated powers of the Chamber President of the First-tier Tribunal for Scotland (Housing and Property Chamber), under Rule 8 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”)

Chamber Ref: FTS/HPC/PY/24/1248

Parties:

David Marshall, Lynsey Stafford, 9 Tiree Avenue, Ayr, KA7 4FQ (“the Applicants”)

Euan Blaikie, c/o Wallace Hodge Sol, 6 Burns Statue Square, Ayr, KA7 1UP (“the Respondent”)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be dismissed on the basis that it would not be appropriate to accept the application in terms of Rule 8(1)(c).

Background

1. The application was received by the Tribunal on 13 March 2024 in terms of the Debtors (Scotland) Act 1987. The Applicants were advised by letters of 19 March 2024, 17 April 2024 and 8 May 2024 that, in order to process the application, proof of a decree or payment order having been made, such as an arrestment which has been executed or proof that an action of adjudication for debt has been commenced, is required. The Applicants failed to respond.

Reasons for Decision

2. The Tribunal considered the application in terms of Rule 8 of the Chamber 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; (c) they have good reason to believe that it would not be appropriate to accept the application; (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."*

3. In terms of the Debtors (Scotland) Act 1987, Time to Pay applications may only be determined after a decree or payment order has been made. As no proof of this has been provided by the Applicants, the Tribunal cannot consider the Application and cannot make a determination on it. Accordingly, the application is rejected.

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.

Karen Moore

Legal Member

Date

29 May 2024