



**Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 5 of the Debtors (Scotland) Act 1987 and Rule 41H of the of the First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Regulations 2017 (“the Rules”)**

**Chamber Ref: FTS/HPC/PY/24/2793**

**Parties:**

**Brogan Stewart, Avondhu, Bank Street, Slamannan, Falkirk, FK1 3EZ (“the Applicant”)**

**H & B Collections, 9 Royal Crescent, Glasgow, G3 7SP (“the Respondent”)**

**Tribunal Member:  
Karen Moore**

**Decision (in absence of the Parties)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the time to pay application be granted in the sum of £20.00 per month.**

**Background**

1. This is an application for time to pay (TTPA) under section 5 of the Act and Rule 41H of the Rules.
2. An application for time to pay was received on 20 June 2024. The application was not competent in terms of the Rules and the Applicant was advised accordingly.
3. The TTPA was received on 23 July 2024.
4. The TTPA was sisted by interim Order on 13 August 2024 and the Parties were notified, the Respondent being notified direct and to the solicitors who had acted for them in the debt action relative to the TTPA.
5. The Respondent was asked to respond to the TTPA within 14 days.
6. No response was received from the Respondent;
7. A reply accepting the Applicant’s proposal was received from a third party not referred to in either the debt action or the TTPA.

**Recall of interim sist**

8. The Tribunal being satisfied that the Respondent had had notification of the TTPA, recalled the interim sist and proceeded to determine the TTPA.

#### **Evidence before the Tribunal.**

9. The Tribunal had regard to the following documents:
  - i) The TTPA setting out the Applicant's financial and personal circumstances and offering a payment of £20.00 per calendar month and
  - ii) The Charge served on the Applicant on 6 June 2024 in the sum of FIVE THOUSAND EIGHT HUNDRED AND FIFTY EIGHT POUNDS AND SEVENTY FIVE PENCE (£5,858.75) Sterling

#### **Rule 41H**

10. Rule 41H states *“(1) A party who intends to apply for a time to pay order under section 5 of the Debtors (Scotland) Act 1987 must serve a copy of the application mentioned in subsection (2) of that section on the creditor.(2) An order by the First-tier Tribunal under section 6(4) of the Debtors (Scotland) Act 1987 (creditor to furnish particulars of decree or other document) must require the creditor to provide (a)the date of the order, (b)the names of the parties, (c)details of the debt and any interest due, and (d)any other information the First-tier Tribunal considers necessary.(3) A creditor may object to the granting of an order within 14 days of the copy of the application being served on them. (4) If no written objection is received from the creditor within the 14-day period, the First-tier Tribunal must make a time to pay order in accordance with the application .(5) If a written objection is received from the creditor within the 14-day period, the First –tier Tribunal must appoint a date for the hearing of the application”*

#### **Decision and reason for Decision**

11. In this case, the Respondent as creditor did not submit a written objection to the TTPA. Therefore, in terms of Rule 41H(4) the Tribunal must make a time to pay order in accordance with the application.
12. Accordingly, the Tribunal granted the TTPA and made a time to pay order at the rate of £20.00 per month.

#### **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.**

**Since an appeal is only able to be made on a point of law, a party who intends to appeal the tribunal's decision may wish to request a Statement of Reasons for the decision to enable them to identify the point of law on which they wish to appeal. A party may make a request of the First-tier Tribunal for Scotland (Housing and Property Chamber) to provide written reasons for their decision within 14 days of the date of issue of this decision.**

**Where a Statement of Reasons is provided by the tribunal after such a request, the 30 day period for receipt of an application for permission to appeal begins on the date the Statement of Reasons is sent to them.**

**28 October 2024**

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**Legal Member/Chair**