



Decision with Statement of Reasons of James Bauld , Legal Member of the First-tier Tribunal for Scotland (Housing and Property Chamber) 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/24/5474

Parties:

Zoe France, 34 Cairn Crescent, Ayr, KA7 4PW (“the Applicant”)

Miss Amy Brown, 0/1 14 Muirpark Street, Glasgow, G11 5NP (“the Respondent”)

Decision

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

Background

1. The application for a Time to Pay Order was received by the Tribunal on 7 October 2024 in terms of the Debtors (Scotland) Act 1987.

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;

(b) the dispute to which the application relates has been resolved;

(c) they have good reason to believe that it would not be appropriate to accept the application;

(d) they consider that the application is being made for a purpose other than a purpose specified in the application; or

(e) the applicant has previously made an identical or substantially similar application and in the opinion of the Chamber President or another member of the First-tier Tribunal, under the delegated powers of the Chamber President, there has been no significant change in any material considerations since the identical or substantially similar application was determined.

(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, Applications for Time to Pay Orders may only be made in respect of a debt due under a decree or other document in respect of which —

- (a) a charge for payment has been served on the debtor;
- (b) an arrestment has been executed; or
- (c) an action of adjudication for debt has been commenced

No evidence has been given to the tribunal that any such charge for payment has been served on the applicant nor has any evidence been provided that an arrestment has been executed. No evidence has been produced showing that an action of adjudication for debt has commenced.

The application is accordingly premature and presently incompetent. The Tribunal cannot presently 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.

J. Bauld

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February

2025

Legal Member/Chair

Date