



**Decision on Case Management Discussion of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 16 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ('The Procedure Rules) in relation to a Time to Pay Order application.**

**Chamber Ref: FTS/HPC/PY/25/3113**

**Re: 21 Victoria Street, Newport on Tay, Fife, DD6 8DJ ("the Property")**

**Parties:**

**Frances Whittaker, 7 Lorne Street, Lytham, Lancashire, FY8 5BU ("the Creditor")**

**Mrs Gemma Rice, Mr Allhan Rice ("the Debtor")**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal")**

**Tribunal Member: Jacqui Taylor (Legal Member) Mary Lyden ( Ordinary Member)**

### **Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that an order for payment would be issued requiring the Debtor to pay the Creditor the sum of £1425 by monthly instalments of £100 per month, the first payment to be made within one month of the date she receives intimation of the Payment Order by the Tribunal.**

### **Background**

1. The Tribunal ( Mr McLaughlin) issued a Payment Order dated 3<sup>rd</sup> July 2025 which required the Debtor to pay the sum of £1425 to the Creditor.
2. The Debtor made a Time to Pay Order Application dated 17<sup>th</sup> July 2025 which offered to pay the sum of £1425 by monthly instalments of £100 or one lump sum within 14 months.
3. The Creditor lodged a response dated 24<sup>th</sup> July 2025 in the following terms:

3.1 After agreement with Mrs Rice previously she paid one instalment and then stopped.

3.2 There were two tenants on the tenancy and both are liable. They should both be paying the joint debt.

3.3 Mrs Rice states that she has a temporary contract until August 2026. If it is not renewed the payments will stop.

3.4 Wages arrestment of both parties is the only way to ensure that the debt is fully repaid.

3.5 Both tenants are liable. A payment of £100 from both parties would ensure that the debt is repaid in seven months.

4. The Creditor lodged a second response dated 4<sup>th</sup> September 2025 in the following terms:

4.1 There are two tenants, both are liable for the debt.

4.2 Gemma Rice applied to the Tribunal on 18<sup>th</sup> July 2025 for a payment order which contravenes the Tribunal's rules and guidance which states that an application can only be made after a Charge for payment has been served.

4.3 Gemma and Allhan Rice were both served on 21<sup>st</sup> August 2025 by sheriff officers, after she applied for a payment order.

4.4 There are no supporting documents.

4.5 Gemma Rice has previously indicated that she is on a temporary contract until August 2026 so technically would be out of work before the debt had been repaid.

## **5. Documents lodged with the Tribunal.**

5.1 Documents lodged with the Tribunal by the Debtor were:

5.1.1 A copy of two of the Debtor's bank statements.

5.1.2 A pay slip from Fife Council.

5.2 Documents lodged with the Tribunal by the Creditor:

5.2.1 A copy of the Charge for Payment dated 27<sup>th</sup> August 2025.

## **6. Hearing.**

The case called for a conference call Hearing at 11.30am on 26th January 2026.

Both parties attended.

### **6.1 Oral submissions by Mrs Rice:**

6.1.1 Her monthly total income was £1507.83 (which included her net pay, maintenance, board payments from her daughter and child benefit). The details were provided with her application.

6.1.2 She has provided details of her monthly expenses which amount to £1520.11 per month.

6.1.3 She acknowledged that if she misses two monthly payments a monthly Time to Pay Order would lapse.

6.1.4 She rented the Property for ten years and only missed two rent payments. She acknowledged that this was due to an error on their part and the result of having been made homeless.

6.1.5 Her husband pays her maintenance payments of £500 per month and would not be in a position to contribute to the rent arrears.

6.1.6 She does not receive tax credits.

## **6.2 Oral Submissions by Mrs Whittaker:**

6.2.1 She considers that Mr Rice should be making a contribution towards the rent arrears.

6.2.2 Mrs Rice had previously offered to make monthly instalments of £100 but did not keep up the payments.

## **7. Decision.**

7.1 The Tribunal considered the parties written and oral representations.

They were mindful that section 5 of The Debtors (Scotland) Act 1987 (as amended) provides that the Tribunal may make a Time to Pay Order if a Charge for Payment has been served on the debtor and it is satisfied that it is reasonable in the circumstances to do so having regard in particular to:-

- (i) The nature and reasons for the debt in relation to which the order is sought.
- (ii) Any action taken by the creditor to assist the debtor in paying the debt.
- (iii) The debtor's financial position.
- (iv) The reasonableness of any proposal by the debtor to pay that debt.
- (v) The reasonableness of any refusal or objection by the creditor to any proposal or offer by the debtor to pay the debt.

7.2 The Tribunal find that the Charge for Payment had been served on the Debtor and it was dated 21<sup>st</sup> August 2025.

7.3 The Tribunal find that Time to Pay Order application is reasonable due to the following:

- (i) The Debtor has free monthly income and can afford to pay monthly instalments of £100.
- (ii) It would take 15 months for the sum to be paid to the Creditor by monthly instalments of £100, which they consider to be a reasonable time.
- (iii) If the event that two monthly instalments are missed the Time to Pay Order would lapse and
- (iv) As the Debtor and Mr Rice are jointly several for the debt any Time to Pay Order does not affect Mr Rice's liability for the debt.

7.4 Consequently, the Tribunal issued a Time to Pay Order for the Debtor to pay the Creditor the sum of £1425 by monthly payments of £100, the first payment to be made within one month of the date the Debtor receives intimation of the Time to Pay Order from the Tribunal.

## **8. 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 Taylor**

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**Legal Member**

**26<sup>th</sup> January 2026**