



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

Chamber Ref: FTS/HPC/PY/19/1655

Parties:

Ms Natalie Stewart, 163 Newark Street, Greenock, PA16 7QW (“the Applicant”)

Miss Chiara Louise Cacioppo, 7 Gleneagles Drive, Gourock, PA16 1HX (“the Respondent”)

Tribunal Members:

Alan Strain (Legal Member) and Elizabeth Williams (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application for a time to pay order be refused.

Background

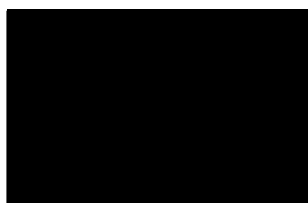
This was an application for a time to pay order dated 20 May 2019 following upon an order for payment by this Tribunal in the sum of £990 made on 15 October 2018.

The Tribunal had regard to the following documents:

1. Application;
2. Order dated 15 October 2018;
3. Sheriff Officer’s charge for payment dated 8 May 2019;
4. Decision and Reasons dated 15 October 2018;
5. Letter of 22 July 2019 from Applicant’s lawyers;
6. Respondent’s written representations dated 23 July 2019.

Hearing

The Applicant attended and represented herself. The Respondent did not attend but was represented by her father.



The Tribunal heard from both Parties with regard to the Application.

The Applicant did not produce any documentary evidence in support of the substantial debt she asserted in her application.

The Respondent questioned the veracity of the debts and outlined the Applicant's failure to make payments since the Tribunal order on 15 October 2018. He also gave evidence with regard to the payment of £850 made to the Applicant which had not been used to assist with repaying the debt due to the Respondent. This had been paid following a determination by this tribunal in case CV/18/0305.

The Applicant stated that she had used this money to pay her solicitors and other debtors rather than the Respondent.

The Applicant stated she was living at home with her parents and spoke to the financial situation as outlined in her application. £65 per month was all that she could afford and her other debtors were not prepared to negotiate on the repayment amounts.

The Respondent again questioned proof of these debts and spoke of the financial hardship this had occasioned his daughter.

An earnings arrestment was currently in place at the rate of £171 per month. 3 payments had been made and a further was due to be made today.

The Tribunal carefully considered the evidence before it and determined that the application should be refused on the following grounds:

1. The Applicant had not made any payment in respect of debt until the earnings arrestment was put in place;
2. The debt had been outstanding since 15 October 2018;
3. The Tribunal were not satisfied that the Applicant's financial position meant that she could not sustain the earnings arrestment payments at £171;
4. The Tribunal were not satisfied that the Applicant had tried to renegotiate monthly payments towards the other debtors;
5. The Applicant had unreasonably used the money paid by the Respondent to her in satisfaction of other debts;
6. The Respondent's objections to the proposal to pay were reasonable in the circumstances.

The Tribunal refused the application. The Tribunal decision was unanimous.

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.



Legal Member/Chair

13 September 2019

Date