



**DECISION AND STATEMENT OF REASONS OF JOSEPHINE BONNAR,
LEGAL MEMBER OF THE FIRST-TIER TRIBUNAL WITH DELEGATED
POWERS OF THE CHAMBER PRESIDENT**

**Under Rule 8 of the First-tier Tribunal for Scotland Housing and Property
Chamber Rules of Procedure 2017 ("the Rules")**

in connection with

Case Reference: FTS/HPC/PY/22/2738

Kieran Woods, 56 Northpark Street, Glasgow ("the Debtor")

Rachel Lewis, 2/2 66 Young Terrace, Glasgow ("the Creditor")

1. The Debtor submitted an application for a time to pay order in terms of Rule 41H of the Procedure Rules and Section 5 of the Debtors (Scotland) Act 1987. The Applicant ticked a box on the application form, stating that a charge for payment had been served. He did not provide a copy of the Charge. In response to requests for further information, the Debtor stated that he had not been served with a charge for payment by a Sheriff Officer and advised that he had made an error when completing the form.

DECISION

2. After consideration of the application the Legal Member considers that the application should be rejected in terms of Rule 8(1)(c) which states that an application must be rejected if the Tribunal has "good reason to believe that it would not be appropriate to accept the application."

Reasons for Decision

3. The Debtor submitted the application for an order in terms of Rule 41H of the Procedure Rules and Section 5 of the Debtors (Scotland) Act 1987 (“the 1987 Act”). Section 5(1) of the 1987 Act states that an application for a time to pay order can only be made after a charge has been served, an arrestment executed or an action for adjudication for debt has commenced. The Debtor initially indicated that a charge had been served. He subsequently confirmed that this had been a mistake and that he had not been served with a charge for payment. .
4. As an application for time to pay can only be made once diligence has commenced, the Legal Member determines that it would not be appropriate to accept the application.

What you should do now

If you accept the Legal Member’s decision, there is no need to reply.

If you disagree with this decision –

An applicant aggrieved by the decision of the Chamber President, or any Legal Member acting under delegated powers, 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. Information about the appeal procedure can be forwarded to you on request.



Josephine Bonnar, Legal Member
22 September 2022