



**Decision of the First-tier Tribunal for Scotland Housing and Property Chamber
in terms of the (Procedure) Regulations 2017 Schedule 1 Section 41H and
Section 7 of the Debtors (Scotland) Act 1987**

Reference number: FTS/HPC/PY/22/3741

The Parties:

Kieran Woods, 56 Northpark Street, Glasgow G20 7AE (“Applicant”)

Rachel Lewis, 2/2, 66 Young Terrace, Glasgow G21 4LL (“Respondent”)

Tribunal Members:

Joan Devine, Legal Member and Mary Lyden, Ordinary Member

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) determined not to make a time to pay order in respect of the sum of £1350 due by the Applicant to the Respondent in terms of a Payment Order granted on 22 June 2022 in respect of the application proceeding under reference FTS/HPC/PR/21/1904.

Background

1. The Applicant made an application for a time to pay order dated 7 October 2022 under Rule 41H of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ("Rules"). The Application stated that it related to a payment order granted in the case reference FTS/HPC/PR/21/1904 in the sum of £1350 ("Payment Order"). The Applicant offered to pay the sum due at the rate of £50 per month. The Applicant lodged a copy of a charge for payment served on 6 October 2022 and a copy of an entry on the Accountant in Bankruptcy website which indicated that he had granted a trust deed on 6 June 2020 which became protected on 31 July 2020. The Respondent objected to the Application. A Hearing was fixed for 28 February 2023 at 10am.

Hearing

2. The Respondent was in attendance at the Hearing which took place by conference call. There was no appearance by the Applicant.
3. The Tribunal asked the Respondent if any payments had been made by the Applicant since the Payment Order was made. She said that no payments had been made. She said that there had been no contact from the Applicant following the grant of the Order for Payment on 22 June 2022 until the charge for payment was served on 6 October 2022. She said there had been no direct contact from the Applicant at all. The Respondent said that she thought the proposal was unreasonable as it would take 27 months for the debt to be paid. She said she thought it would be reasonable for the debt to be paid within 6 months which would be payments of £225 per month. The Respondent said that this was the last year of her studies and she would possibly be returning home to India in October, depending on her review in August. She said she is studying for a PHD. The Respondent said that she had anxiety and wanted to see this matter resolved. She said the process had been long.

Reason for Decision

4. The Tribunal determined not to make a time to pay order. The Applicant's financial position as set out in the Application indicated that he did have a surplus of income over expenditure. The Payment Order had been granted on 22 June 2022, despite having available income, no attempt had been made by the Applicant to make any payment towards the sum due. The proposal set out in the Application was payments of £50 per month. Payments at that level would result in taking 27 months for the debt to be repaid. The Respondent had indicated that she would accept payments over a 6 month period. That proposal was reasonable but the Applicant had not responded to that proposal in any way. The Tribunal also noted that the Applicant had granted a trust deed for creditors.

Decision

5. In all the circumstances, and in the absence of a submission from the Applicant, the Tribunal determined that it was not reasonable to grant a time to pay order.

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
Date: 28 February 2023