



**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**

**Chamber Ref: FTS/HPC/PY/20/2038**

**Parties:**

**Janis White, 23 Neilvaig Drive, Rutherglen, Glasgow, G73 4HH (“the Applicant”)**

**Mr Pervez Siddique, 180 Mallot's View, Newton Mearns, G77 6GN (“the Respondent”)**

**Tribunal Members:**

**Helen Forbes (Legal Member) and Leslie Forrest (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) grants a Time to Pay Order under section 5(2) of the Debtors (Scotland) Act 1987, in the following terms:**

**The Debtor is required to pay the sum of Fifty pounds (£50) per calendar month until the full amount has been paid. The first payment must be made no later than 3<sup>rd</sup> March 2021 with subsequent payment due on the third of each month.**

**As the Tribunal has now made a decision on the Time to Pay Order application, the Interim Order to sist diligence is recalled.**

**Background**

1. This is an application dated 22<sup>nd</sup> September 2020, made in terms of Rule 41H of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, as amended (“the Rules”). The Applicant is seeking a Time to Pay Order in respect of an order for payment in the sum of £4500 made by a tribunal on 3<sup>rd</sup> August 2020, and a Charge for Payment served on 16<sup>th</sup> September 2020. The total sum due following the Charge for Payment is £4597.39. The Applicant is seeking to make payments in the sum of £30 per month.

2. An interim order to sist diligence was made by a legal member of the Tribunal on 12<sup>th</sup> October 2020.
3. By response dated 26<sup>th</sup> October 2020, the Respondent indicated that he was not content with the Applicant's proposal as it would take over twelve years to clear the debt.
4. A Case Management Discussion ("CMD") took place on 11<sup>th</sup> January 2021 by telephone conference. The Applicant was in attendance. The Respondent was not in attendance. There was discussion about matters. The Tribunal indicated that it was unlikely that an order would be granted in circumstances where it would take over 12 years to clear the debt. The normal rule of thumb was that a debt should clear within 2 years. The CMD was adjourned for a hearing on the application.

### **The Hearing**

5. A hearing took place by telephone conference on 19<sup>th</sup> February 2021. Both parties were in attendance. The Applicant was represented by Mr Keith Chalmers.
6. The issues before the Tribunal were as set out in section 5(2A) of the Debtors (Scotland) Act 1987 ("the Act"):
  - (a) the nature of and reasons for the debt in relation to which the order is sought;
  - (b) any action taken by the creditor to assist the debtor in paying that debt;
  - (c) the debtor's financial position;
  - (d) the reasonableness of any proposal by the debtor to pay that debt; and
  - (e) the reasonableness of the objection by the creditor to the offer by the debtor to pay that debt.
7. The Tribunal asked the Applicant if her position had changed since the CMD in terms of her proposals for payment. The Applicant said her position had not changed, and no payment towards the debt had been made.
8. Submissions and evidence were heard from both parties and the Applicant's representative in respect of the following matters:

### **The nature and reasons for the debt in relation to which the order is sought**

9. There had been discussion at the CMD concerning this matter, whereby the Applicant had said that the debt arose due to unpaid rent; however, she spent

all her savings, around £10,000, on renovating the Property when she moved in, believing that she would be allowed to live there for life. The Property was almost derelict when she moved in, and she gutted it. She was then asked to leave. Requests were made to the Respondent for assistance in relation to the sums spent to improve the Property, but the matter was ignored. Rent was withheld to allow her to relocate. Although she accepted the sum of £4500 is due, it was her position that she was very badly treated by the Respondent, that the situation is unfair.

10. Mr Chalmers reiterated that position. He said the Applicant had been a model tenant. There had been difficulties with wrong notices being served and wrong information given, which all contributed to the Applicant becoming unwell and having two heart attacks. The letting agent in respect of the rented property had said that the Applicant would be compensated for her improvements to the property and this had not happened. In response to questions from the Tribunal, Mr Chalmers said he accepted there had to be an element of fairness to both parties, but he felt there was a level of injustice in the process.
11. The Respondent said that he had not been aware that money had been spent on the property, and he did not discover this until later. He had been in a difficult financial position and had to sell the property. It had caused him difficulties to be without rental income for an extensive period.

#### **Any action taken by the creditor to assist the debtor in paying the debt**

12. The Respondent said he had written to the Applicant and offered to reduce the amount due by the Applicant some time ago, but he had received no response.

#### **The debtor's financial position;**

13. Responding to questions from the Tribunal regarding her financial position, the Applicant confirmed that the figure of £50 entered on her application form under 'maintenance/childcare costs' related to maintenance of her rented property, including gardening costs and any unforeseen matters that might arise. There was some discussion about the size of her rented property, and the fact that rent forms a significant portion of her outgoings. It is a two-bedroom property. The Applicant lives alone. The Applicant said she had tried to get a one-bedroom property at the time of moving, but it had been impossible. The rent for a one-bedroom property had been much the same as the rent she was now paying, and this was the cheapest area she could find. She had contacted the local authority at the time of having to move, but they could not assist her due to problems with the validity of notices served. She was now grateful to have a second bedroom so grandchildren could stay over.
14. In an attempt to explore every avenue to find an equitable solution, the Tribunal explored whether the Applicant's outgoings could be reduced. Mr Chalmers said there may be some scope for reducing utility tariffs.

**The reasonableness of any proposal by the debtor to pay that debt and the reasonableness of any refusal by the creditor of, or any objection by the creditor, to any proposal by the debtor to pay the debt.**

15. The Respondent said he could not accept a proposal that would mean it would take over 12 years to pay off the debt. He said he could accept £60 or £70 per month.

16. The Tribunal adjourned to allow the Applicant and Mr Chalmers to consider her position and see whether she was in a position to suggest an increase in the proposed monthly payments.

17. The Tribunal reconvened and Mr Chalmers said that there may be scope for increasing the proposed payments to £60 per month; however, this would cause difficulties and he would ask the Respondent to accept £50 per month.


18. The Respondent accepted the proposal for payments of £50 per month.

### **Reasons for decision**

19. The Tribunal considered all the circumstances of the case in deciding whether or not it was reasonable to make a time to pay order. The Applicant is liable for payment of the debt. The Applicant has limited income and would not be able to pay the debt in full. A time to pay order is competent and appropriate. The Tribunal considered that it was reasonable to accept the Applicant's proposal and make the order for payment in the sum of £50 per month, as agreed between the parties.

### **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.**

  
Helen Forbes

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Legal Member/Chair

19<sup>th</sup> February 2021  
Date