
STATUTORY INSTRUMENTS

1986 No. 1925

The Insolvency Rules 1986

THE SECOND GROUP OF PARTS

PART 6

BANKRUPTCY

CHAPTER 1

THE STATUTORY DEMAND

Hearing of application to set aside

6.5.—(1) On receipt of an application under Rule 6.4, the court may, if satisfied that no sufficient cause is shown for it, dismiss it without giving notice to the creditor. As from (inclusive) the date on which the application is dismissed, the time limited for compliance with the statutory demand runs again.

(2) If the application is not dismissed under paragraph (1), the court shall fix a venue for it to be heard, and shall give at least 7 days' notice of it to—

- (a) the debtor or, if the debtor's application was made by a solicitor acting for him, to the solicitor,
- (b) the creditor, and
- (c) whoever is named in the statutory demand as the person with whom the debtor may enter into communication with reference to the demand (or, if more than one person is so named, the first of them).

(3) On the hearing of the application, the court shall consider the evidence then available to it, and may either summarily determine the application or adjourn it, giving such directions as it thinks appropriate.

(4) The court may grant the application if—

- (a) the debtor appears to have a counterclaim, set-off or cross demand which equals or exceeds the amount of the debt or debts specified in the statutory demand; or
- (b) the debt is disputed on grounds which appear to the court to be substantial; or
- (c) it appears that the creditor holds some security in respect of the debt claimed by the demand, and either Rule 6.1(5) is not complied with in respect of it, or the court is satisfied that the value of the security equals or exceeds the full amount of the debt; or
- (d) the court is satisfied, on other grounds, that the demand ought to be set aside.

(5) Where the creditor holds some security in respect of his debt, and Rule 6.1(5) is complied with in respect of it but the court is satisfied that the security is under-valued in the statutory demand, the creditor may be required to amend the demand accordingly (but without prejudice to his right to present a bankruptcy petition by reference to the original demand).

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(6) If the court dismisses the application, it shall make an order authorising the creditor to present a bankruptcy petition either forthwith, or on or after a date specified in the order.

A copy of the order shall be sent by the court forthwith to the creditor.