



Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) in an application under section 17 of the Property Factors (Scotland) Act 2011 ("the Act")

Chamber Ref: FTS/HPC/LM/23/0214

Re: Property at 97A Candren Road, Paisley, PA3 1DL ("the Property")

Parties:

Alan Bruce, residing at 4 Haldane Street, Glasgow G14 9QN ("the Applicant")

Hacking and Paterson, 1 Newton Terrace Glasgow G3 7PL ("the Respondent")

Tribunal Members:

Jim Bauld (Legal Member)

Helen Barclay (Ordinary Member)

DECISION

The Tribunal decides not to issue a Property Factor Enforcement Order.

The decision is unanimous.

Background

1. By application dated 23 January 2023 the homeowner applied to the Tribunal for a determination on whether the factor had failed to comply with various sections of the Code of Conduct for Property Factors imposed by section 14 of the Property Factors (Scotland) Act 2011 and to carry out the property factor duties in terms of section 17 (1) (a) of the Property Factors (Scotland) Act 2011 (hereafter referred to as "the 2011 Act").
2. The application was accepted by the tribunal and referred for determination by the tribunal.



3. A Case Management Discussion (CMD) was set to take place on 16 August 2023 via telephone case conference and appropriate intimation of that hearing was given to the parties.

Hearing

4. The CMD took place before the Tribunal on 16 August 2023 by means of a telephone case conference. After the hearing was concluded, the tribunal issued a decision together with a draft of its proposed property factor enforcement order ("PFEO")
5. The terms of the proposed PFEO were as follows
 - The tribunal proposes to make a PFEO in respect of the application and proposes an order for payment would be made against the property factor in favour of the applicant in the sum of £200.
 - The payment can be made by reducing the balance currently owed by the applicant to the respondent by making an appropriate credit entry on applicant statement of account with the property factor.
6. Parties were invited to make representations to the tribunal in respect of this proposed order in terms of section 19 (2) of the 2011 Act.

Subsequent representations

7. Subsequent to the issue of the proposed PFEO the respondent sent an email dated 26 October 2023 to the tribunal administration confirming that they had complied with the terms of the draft order and had placed an appropriate credit on the homeowner's account. The homeowner has not responded to the intimation of the tribunal's decision with the draft PFEO. He has not responded to the intimation sent to him regarding the email from the respondent. In the circumstances, the tribunal assumes that the homeowner is content with the tribunal's decision and that he has also received the credit to his account as indicated by the respondent in their email of 26 October.
8. In the circumstances the tribunal takes the view that issuing a final PFEO would appear to be unnecessary and accordingly the tribunal has elected in terms of section 19 (1) (b) of the 2011 Act not to make a PFEO in this case



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.



Date: 13 November 2023

Legal Member: