

Housing and Property Chamber

First-tier Tribunal for Scotland



First-tier tribunal for Scotland (Housing and Property Chamber)

Property Factors (Scotland) Act 2011, Section 19(3)

CERTIFICATE OF COMPLIANCE WITH PROPERTY FACTOR ENFORCEMENT ORDER

The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2016 ("the 2016 Regulations")

Chamber Ref: hohp.pf.16.0115

Flat 0/2, 48 Garscadden Road, Old Drumchapel, Glasgow, G15 6UL ("the Property")

The Parties:-

Dr Gemma McGrory residing at Flat 0/2, 48 Garscadden Road, Old Drumchapel, Glasgow G15 6UL ("the Homeowner")

Be-Factored Limited, 2a North Kirklands, Eaglesham Road, Glasgow, G76 0NT ("the Factor")

Tribunal Members:

**Mr E K Miller, Chairman and Legal Member
Ms E Munroe, Housing Member**

This Notice should be read in conjunction with the Decision and proposed Property Factor Enforcement Notice dated 7 March 2017 under Reference HOHP.PF.16.0115 and the subsequent Property Factor Enforcement Order (PFEQ) dated 17 May 2017

Decision

1. The Tribunal determined that the PFEQ dated 17 May 2017 had been complied with and a Certificate of Compliance issued.
2. The Decision of the Tribunal was unanimous.

Reasons for Decision

Background

3. By Decision dated 7 March 2017, the Tribunal determined that the Factors had breached their duties in terms of Section 17 (1) (b) of the Property Factors (Scotland) Act 2011 ("the Act") in that they had failed to comply with Sections 1, 2.5 and 3.2 of the Property Factors Code of Conduct as required by Section 14 (5) of the Act.
4. The Tribunal had subsequently issued a PFEO dated 17th May 2017 that stated:-
 - a. The Factor is directed to remit the sum of £377.62 to the Homeowner within 31 days of the date of service of this PFEO.
5. By email dated 12 June 2017, the Factor confirmed that they made payment of the sum of £377.62 to the new factor, Cunning Turner Watt in respect of the Homeowners funds.
6. The Tribunal considered matters. The Homeowner and the new factor had confirmed that the sum of £377.62 had been transferred to the new actor and credited to the Homeowner's account. The Tribunal did note that the Factor had not fully complied with the order in the sense that the PFEO required payment to be made to the Homeowner rather than to the new factor. However, the Tribunal was of the view that, in practical terms, compliance had been achieved as the Homeowner had benefited to the amount set out in the PFEO.

On that basis, the Tribunal was satisfied that the PFEO had now been complied with and this Certificate of Compliance issued..

Right of Appeal

7. In terms of section 46 of the Tribunals (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.

Where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by the Upper Tribunal, and where the appeal is abandoned or finally determined by upholding the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.

Effect of section 63

8. Where such an appeal is made, the effect of the decision and of the order is suspended until the appeal is abandoned or finally determined, and where the appeal is abandoned or finally determined by confirming the decision, the decision and the order will be treated as having effect from the day on which the appeal is abandoned or so determined.

E Miller

Signed

Date 28/8/17

Chairperson

