

Housing and Property Chamber

First-tier Tribunal for Scotland



Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) in relation to an email received from the Homeowner dated 29th November 2017 setting out alleged false and misleading allegations and misrepresentations made in breach of the Scottish Tribunal (Offences in relation to Proceedings) Regulations 2016 and he intimated that they were of such importance to disturb the findings made by the Tribunal in their decision dated 15th May 2017.

Chamber Ref:FTS/HPC/LM/17/0037

5 Hillpark Grove, Edinburgh, EH4 7AP ('the Property')

The Parties:

Aylmer Millen residing at 5 Hillpark Grove, Edinburgh, EH4 7AP ('the Homeowner')

Charles White Limited, Citypoint, 65 Haymarket Terrace, Edinburgh, EH12 5HD ('the Factor')

Tribunal members:

Jacqui Taylor (Chairperson) and Ahsan Khan (Ordinary Member).

Background

1. The Tribunal issued a Determination dated 15th May 2017 which found that the Factor had failed to comply with section 7.2 of the Code of Conduct and advised that they proposed to make a Property Factor Enforcement Order.

2. The Tribunal issued a Property Factor Enforcement Order dated 10th July 2017 ('PFOE') which was sent by the Tribunal administration to the parties on 19th July 2017. The Decision of the Tribunal was detailed in the PFOE.

The Decision stated:

'The Tribunal, having made such enquiries as it saw fit for the purposes of determining whether the factor has complied with the property factor's duties in terms of the Property Factors (Scotland) Act 2011 ('the 2011 Act') determined that the Factor had failed to comply with section 7.2 of the Code of Conduct, all as stated in the said decision.'

The Tribunal intimated to the parties, in terms of their said decision dated 15th May 2017 that they proposed to make a Property Factor Enforcement Order. The only

representations received were detailed representations from the Homeowner dated 25th May 2017. He invited the Tribunal to reconsider its Decision and the Property Factor Enforcement Order. The Homeowner's representations were carefully considered by the Tribunal. They did not consider that they added any additional matters which would necessitate them in reviewing their Decision or the Proposed Property Factor Enforcement Order.

As no material representations have been received from the parties in relation to the proposed Property Factor Enforcement Order the Tribunal make the following Property Factor Enforcement Order:

The Factor is directed to provide the Tribunal with written confirmation that they have reviewed their complaints handling procedure to ensure that it complies with their Written Statement of Services.

The said details and evidence to be provided to the Tribunal by 31st August 2017.'

3. The Homeowner thereafter asked the Tribunal to review their Decision but refused the Homeowner's application for review as they considered it to be without merit.
4. The Homeowner also applied to the Tribunal for leave to appeal the Property Factor Enforcement Order on the grounds that the Tribunal's Notice of no material representations having been received was without merit. The Tribunal refused the application for leave to appeal.

5. Thereafter the Tribunal received an email from the Homeowner dated 29th November 2017 setting out alleged false and misleading allegations and misrepresentations made in breach of the Scottish Tribunal (Offences in relation to Proceedings) Regulations 2016 and intimating that they were of such importance to disturb the findings made by the Tribunal in their decision dated 15th May 2017. As stated above the Tribunal have already considered and refused the Homeowner's application for review and permission to appeal. The email from the Homeowner dated 29th November 2017 is asking the Tribunal to take account of the alleged false and misleading allegations and misrepresentations. However, as the Tribunal has already determined the Homeowner's request for a review and leave to appeal they are unable to consider further representations in relation to this case including the alleged false and misleading allegations and misrepresentations provided by the Homeowner.

J Taylor

Signed ...

Chairperson Date: 28th December 2017