



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

Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) issued under Section 19(1) of the Property Factors (Scotland) Act 2011 (“the Act”) and The First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Amendment Regulations 2017 in an application made under Section 17 of the Act.

Chamber Ref: FTS/HPC/PF/17/0347

Re: Communal area for flats 23 – 29 Leyton Drive, Inverness

The Parties:-

Ms Yvonne MacDonald, 27 Leyton Drive, Inverness, IV2 4HS (“the Homeowner”)

Cairn Housing Association Limited, Citypoint, 65 Haymarket Terrace, Edinburgh, EH12 5HD (“the Factor”) (represented by Mr Angus Brown, Solicitor)

Tribunal Members

Ms Helen Forbes (Legal Member)

Mr Colin Campbell (Ordinary Member)

Decision

The Tribunal determined that the Factor has complied in full with the terms of the proposed Property Factor Enforcement Order (“PFOE”); therefore, it is not necessary for the Tribunal to make a final PFOE in this case, and no further action on the part of the Factor is required.

Background

On 22nd December 2018 the Tribunal determined that the Factor had failed to comply with their duties under Section 14 of the Act in that they had failed to comply with Section 2.5 of the Property Factors Code of Conduct (“the Code”).

The Statement of Decision containing the determination of the Tribunal stated that the Tribunal proposed to make a PFOE in respect of the failure by the Factor to comply with their duties under Section 14 of the Act and the terms of the proposed PFOE were set out in a Notice under Section 19(2)(a) of the Act, issued with the Statement of Decision.

The PFEO would have required the Factor to 1) issue the Applicant with a Written Statement of Services which meets the requirements of the Property Factors Code of Conduct; 2) schedule a programme of training for all staff who deal with enquiries and complaints from homeowners; and 3) provide the Tribunal with a letter from a person in authority within the Factor's organisation confirming that the requirements of the PFEO have been complied with.

The Statement of Decision was issued to the parties on 12th January 2018. On 17th January 2018, the representative for the Property Factor requested that the Tribunal review its decision.

The Tribunal carried out a review of its decision and an amended Statement of Decision was issued to parties on 15th March 2018.

On 9th March 2018, the Factor informed the Tribunal that the first and second requirements of the proposed PFEO had been complied with. The Factor enclosed a letter that satisfied the third requirement of the proposed PFEO.

On 19th April 2018, the Homeowner confirmed that she had been issued with an amended Written Statement of Services from the Factor.

Decision

The terms of the proposed PFEO have been complied with. Accordingly, the Tribunal determined that it was no longer necessary to make a Property Factor Enforcement Order. No further action is required on the part of the Factor.

The decision of the Tribunal is unanimous.

Right of Appeal

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.

Helen Forbes

Legal Member and Chairperson

2nd May 2018