

Housing and Property Chamber

First-tier Tribunal for Scotland



Certificate of Compliance following upon a decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) in an application under section 17(1) of the Property Factors (Scotland) Act 2011

Chamber Ref: FTS/HPC/PF/20/0851

163/161 Allison Street, Glasgow, G42 8RY ("the Property")

The Parties:-

Mr Mohammed Yasin, 163 Allison Street, Glasgow, G42 8RY ("the Homeowner")

Hacking and Paterson Management Services, 1 Newton Terrace, Glasgow, G3 7PL ("the Factor")

Tribunal Members

Ms H Forbes (Legal Member)

Mr D Godfrey (Ordinary Member)

Decision of the Tribunal

The Tribunal having determined that the Property Factor Enforcement Order ("PFEO") relating to the Property dated 4th June 2021 has been complied with, hereby certifies that the Factor has complied with the PFEO.

Reasons for Decision

1. Following a Hearing on 17th February 2021, the Housing and Property Chamber issued a decision of the Tribunal dated 22nd February 2021 determining that the Property Factor had failed to comply with the Section 14 duty in terms of the Property Factors (Scotland) Act 2011 ("the Act") in respect of compliance with paragraphs 6.1, 6.4 and 6.9 of the Property Factor Code of Conduct ("the Code") as required by section 14(5) of the Act, and that the Property Factor had also failed in carrying out its property factor duties in terms of section 17 of the Act. The Tribunal informed parties of a proposed PFEO in the following terms:

"The Factor is required to pay to the Homeowner within 14 days of intimation to them of the PFEO the sum of £500 from their own funds to compensate the Homeowner for the distress, frustration and inconvenience caused as a result of the Factor's failure to comply with the Code of Conduct for Property Factors and the failure to carry out its property factor duties."

2. Parties were allowed the opportunity to comment upon the proposed PFEO. Understanding there to have been no representations by parties, the Tribunal made a PFEO on 7th April 2021. Thereafter, it came to the attention of the Tribunal that by email dated 4th March 2021, the Homeowner had submitted an application for review of the Tribunal's decision, and by email dated 11th March 2021, the Property Factor had submitted an application for review.
3. On 21st April 2021, a Revocation of PFEO was issued by the Tribunal.
4. The Tribunal considered matters and decided that the applications for review were wholly without merit in terms of Rule 39(3) of the Tribunal Procedure Rules. The applications were refused and a decision dated 10th May 2021 was issued, stating that the original decision and proposed PFEO dated 22nd February 2021 had not been changed.
5. By email dated 3rd June 2021, the Property Factor informed the Tribunal that payment had been made to the Homeowner in accordance with the proposed PFEO on 17th May 2021.
6. The Tribunal considered matters and decided to issue a PFEO, notwithstanding that payment had been made. The PFEO was dated 4th June 2021 and made in the terms of the proposed PFEO as follows:

"The Factor is required to pay to the Homeowner within 14 days of intimation to them of the PFEO the sum of £500 from their own funds to compensate the Homeowner for the distress, frustration and inconvenience caused as a result of the Factor's failure to comply with the Code of Conduct for Property Factors and the failure to carry out its property factor duties."

7. By email dated 17th August 2021, the Homeowner confirmed that payment had been made by the Property Factor as required by the PFEO.
8. Accordingly, the Tribunal is satisfied that the PFEO has been complied with by the Property Factor.

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.