

Housing and Property Chamber

First-tier Tribunal for Scotland



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

by

Kirsty McElhinney, Flat 1/1, 9 Celtic Street, Glasgow G20 0BU ("the Applicant")

FirstPort Property Services Scotland Ltd, 183 St Vincent Street, Glasgow G2 5QD ("the Respondent")

Chamber Ref: FTS/HPC/PF/17/0094

Re: 1/1, 9 Celtic Street, Glasgow G20 0BU
("the Property")

Tribunal Members:

John McHugh (Chairman) and Helen Barclay (Ordinary (Housing) Member)

DECISION

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

The decision is unanimous.

REASONS FOR DECISION

In this decision we refer to the Property Factors (Scotland) Act 2011 as "the 2011 Act" and the Property Factors (Scotland) Act 2011 Code of Conduct for Property Factors as "the Code".

In our decision of 20 July 2017 we found that the Respondent had breached its duties arising under the Code. We provided the parties with a copy of a proposed

Property Factor Enforcement Order ("PFEO") for their comment. The proposed PFEO provided as follows:

"Within 31 days of the date of the communication to the Respondent of this property factor enforcement order, the Respondent must:

- 1 *Pay to the Applicant the sum of £100.*
- 2 *Refund to the Applicant all administration or other charges relating to late payment which have been imposed relating to the Applicant's delayed or non-payment of common charges since January 2017.*
- 3 *Confirm in writing to the office of the Tribunal that steps 1 and 2 above have been carried out."*

On 26 July 2017, the Respondent contacted the office of the Tribunal to confirm that the payment anticipated in the PFEO had been issued by the Respondent to the Applicant and that a late fee of £36 had already been credited to the Applicant's account.

The Applicant has since confirmed to the office of the Tribunal by email her safe receipt of the payment of £100 although she had not yet received a quarterly statement showing the £36 credit to her account.

We accept that the position is as stated by the Respondent.

In the circumstances, issuing the PFEO would appear unnecessary and so we have elected in terms of section 19(1)(b) of the 2011 Act not to issue any PFEO in this case.

APPEALS

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.

J McHugh

JOHN M MCHUGH

CHAIRMAN

DATE: 6 October 2017