

Housing and Property Chamber

First-tier Tribunal for Scotland



Review a decision by the First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) in terms of Rule 39 of the First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Regulations 2017 (“the Rules”).

Reference numbers:

FTS/HPC/PF/22/0234

FTS/HPC/PF/22/0793

FTS/HPC/PF/22/0795

Re: Property at 3 Queens Court, Perth, PH2 0ES (“the Property”)

The Parties:

Mrs. Kathleen Pringle residing at the Property (“the Homeowner”) per her representative, Mr William Pringle also residing at the Property (“the Homeowner’s Representative”)

Abbey Forth Property Management Limited having an office sometime at Balcairn, Viewfield Terrace, Dunfermline KY12 7HY and now Laich House, 5, Castle Court, Carnegie Campus, Dunfermline KY11 8PB (“the Property Factor”)

Tribunal Members

Karen Moore (Chairperson) and Kingsley Bruce (Ordinary Member)

Background

1. By three separate applications all received on 16 March 2022 (“the Applications”) the Homeowner’s Representative on behalf of the Homeowner applied to the First-tier Tribunal for Scotland (Housing and Property Chamber) for a determination that the Factor had failed to comply with the Codes of Conduct for Property Factors and had failed to comply with the Property Factor’s Duties.
2. The Applications were accepted by the Chamber and referred to the Tribunal. A case management discussion (CMD) took place on 9 June 2022 at 10.00, the outcome of which was that the Tribunal made the following Decision:

“The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Property Factor :-

- (i) *has failed to comply with the Section 14 duty in terms of the Act in respect of compliance with the Property Factor Code of Conduct 2011 (“the 2011 Code”) at Section 1 at 1.1;*

Section 2 at 2.3, 2.4 and 2.5;

Section 3 at 3.2, 3.5a and 3.6;

Section 6 at 6.6;

Section 7 at 7.1;

- (ii) *has failed to comply with the Section 14 duty in terms of the Act in respect of compliance with the Property Factor Code of Conduct 2021 ("the 2021 Code")*

at Section OSP at OSP3, OSP10 and OSP11;

Section1 at 1.1 and 1.G(21);

Section 2 at 2.4, and 2.7;

Section 3 at 3.7;

Section 6 at 6.9 and

Section 7 at 7.1 and

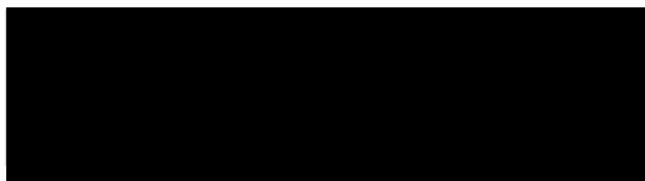
- (iii) *has failed to comply with the Property Factor's Duties."*

3. The Tribunal issued its written Decision dated 4 July 2022 following which the Homeowner's Representative, by email, pointed out an error in the written Decision as it refers at several points to the Property Factor having provided a Written Statement of Services (WSS) to the Homeowner in September 2020. The Homeowner's Representative email of 8 July 2022 was, in effect, an application for review in terms of Rule 39 but did not fully comply with Rule 39 (2) as it was not copied to the Property Factor. Therefore, the Tribunal, being of the view that there is merit in the Homeowner's Representative email, and in the interests of justice, proposed to review its written Decision at its own instance in terms of Rule 39 (1) and gave notice to the Parties in terms of Rule 39 (7) of the Rules and set out its provisional views in an annexed Proposed Reviewed Decision.

Review

4. The Homeowner's Representative made written submissions by email confirming agreement to the Review and making further comments on the wording of the Proposed Reviewed Decision. The Property Factor made no comment. The Tribunal considered the Homeowner's Representative's written submissions and comments but took the view that the comments did not alter the Proposed Reviewed Decision in any significant way and did not effect the overall outcome. Therefore, the Tribunal determined to issue the reviewed Decision in terms of the Proposed Reviewed Decision.

5. This Decision is unanimous. There is no right of appeal.



Legal Member/Chair

Date 4 August 2022