



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

Compliance Decision

Property Factors (Scotland) Act 2011, Section 19

The First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Regulations 2017 as amended (“the 2017 Regulations”)

Chamber Ref: FTS/HPC/PF/22/0929

Property at Ferryhill Court, 85 Whinhill Gate, Aberdeen, AB11 7WF (“The Property”)

The Parties: -

Mr James Murison, residing at the Property (“the Homeowner”)

FirstPort Property Services Scotland, Troon House, 199 St Vincent Street, Glasgow G2 5QD (“the Factor”)

Tribunal Members: -

**Maurice O’Carroll (Legal Member)
John Blackwood (Ordinary Member)**

Decision of the Chamber

The First-tier Tribunal (Housing and Property Chamber) (“the Tribunal”) determined that the Factor has complied in full with the terms of the Property Factor Enforcement Order (“PFEKO”) dated 5 October 2022 and therefore no further action on the part of the Factor is required.

Reasons for Decision

1. By decision (following review) of 5 October 2022, the Tribunal determined that the Factor had breached its duties in terms of the 2011 Act in that it had failed to comply with sections 7.1 and 7.2 of the Code of Conduct for Property Factors as required by s 14(5) of that Act.
2. The Tribunal issued a final Property Factor Enforcement Notice dated 5 October 2022 on the Factor.
3. The PFEKO so issued required the Factor to carry out the following within 28 days of the Notice:

- (i) Provide a written apology from the Factor's CEO addressed to the Homeowner acknowledging the poor service which the Homeowner received in respect of the matters referred to in the Tribunal's decision.
 - (ii) Provide a written statement to the Homeowner furnishing an explanation to him regarding tender and complaints procedures applied by the Factor and providing detailed assurance that the shortcomings identified by the Tribunal in its decision (as reviewed) will not be repeated in respect of tender processes conducted by it in the future, or in respect of any future complaints it may receive in the future.
 - (iii) Pay compensation to the Homeowner in the sum of £500 (Five Hundred Pounds) in respect of the time and inconvenience to the Homeowner occasioned by the Factor's failure to comply with its factor duties under the Code.
 - (iv) Provide documentary evidence of compliance to the Tribunal with the above Order within 7 days of having done so.
4. On 13 December 2022, the Factor's CEO wrote to the Homeowner by letter dated 28 November 2022 providing an apology in respect of the poor service the Homeowner had received in terms of requirement (i) of the final PFEO. The Factor's Regional Manager wrote a further letter dated 28 November 2022 received by the Homeowner on 13 December 2022 further to the requirements of paragraph (ii) of the PFEO. The Factor also sent a cheque dated 7 December 2022 to the Homeowner, received by him on 22 December 2022, in the sum of £500 further to requirement (iii) of the PFEO.
 5. On 22 December 2022, the Homeowner confirmed receipt of the above items to the Tribunal. He indicated that he remained unsatisfied with the terms of the letters from the CEO and the Regional Manager. The Tribunal had not set out the precise content of the terms of the letters referred to in the PFEO. Instead, as is normal, it stipulated the results to be achieved. The Tribunal noted that a cheque had been received by the Homeowner as required.
 6. Having reviewed the correspondence from the Factor and Homeowner and having noted receipt of the cheque of £500 in recognition of the poor service provided, the Tribunal was satisfied that the Factor had complied in full with the stated requirements of the PFEO dated 5 October 2022. It therefore determined to issue the present Certificate of Compliance.

Appeals

7. 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 within 30 days of the date the decision was sent to them.

Signed: M O'Carroll
Chairman

Date: 5 January 2023