

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Property Factor Enforcement Order following a Decision under Section 17 of the Act.

Reference number:

FTS/HPC/PF/23/2339 ("the Application")

Re: 2F1, Chilton, Gracefield Court, Musselburgh, EH21 6LL ("the Property") ("the Application").

The Parties:

Mrs. Jane Calder residing at Pyat Shaws Cottage, Longyester, Near Gifford, EH41 4PL ("the Homeowner") per her representative, Mr. Garry Calder, of the same address.

Charles White Limited, having a place of business at 14 New Mart Road, Edinburgh, EH14 1RL ("the Property Factor")

Tribunal Members

Karen Moore (Chairperson) and David Godfrey (Surveyor and Ordinary Member)

Background

1. Having determined by Decision dated 30 September 2024 that the Property Factor had failed to comply with the Section 14 duty and its property factor's duties in terms of the Act, and having determined to issue a Property Factor Enforcement Order ("PFEO"), the Tribunal gave Notice in accordance with Section 19(2)(a) of the Act of its proposed PFEO and invited the Parties to make representations.
2. The Parties did not make any representations.
3. Accordingly, the Tribunal makes the following PFEO:

PFEO:

No later than 31 December 2024 the Property Factor must at its own cost and expense

1. refund or write off the Homeowner's share of the cost of the work carried out by Fitzpatrick Property Services invoiced on 5 August 2022 and to pay to her the sum of £100.00 in compensation for the inconvenience which the Property Factor has caused her in regard to this aspect of her complaint;
2. correct its Written Statement of Services with regard to the erroneous references to the Deed of Declaration of Conditions by Malcolm Bremner Homes Limited recorded in the G.R.S. (Midlothian) on 13 October 1987 which affects the Property;
3. review its procedures in respect of the process and protocols for dealing with routine and emergency repairs for the development of which the Property forms part and set these out in a written document as a Standard Operating Procedure ("the SOP") for staff and customers;
4. correct its Written Statement of Services with regard to the said reviewed process and protocols for dealing with routine and emergency repairs;
5. review the accreditation and certification of its approved contractors to ensure that all contractors are properly accredited and certified;
6. update its repairs case management system to ensure that all approved contractors are shown as properly accredited and certified;
7. include in the said SOP, a process and protocol for dealing with occasions where the repairs case management system shows that a contractor is not properly accredited and certified;
8. include in the said SOP, a process and protocol for selecting contractors in respect of appropriate skills and location to the Property;
9. issue the said SOP to the Homeowner;
10. issue the said SOP to relevant staff and, thereafter, train relevant staff in the said SOP;
11. issue the corrected Written Statement of Services and
12. evidence to the Tribunal that items 1-11 above have been carried out.

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.

Karen Moore,

Chairperson

19 November 2024