

Housing and Property Chamber
First-tier Tribunal for Scotland



Decision and Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 19(3) of the Property Factors (Scotland) Act 2011

Chamber Ref: FTS/HPC/PF/23/0160

Re: Property at Flat 2/3, 245 Paisley Road West, Glasgow, G51 1NE ("the Property")

Parties:

Miss Bethany Christie, Flat 2/3, 245 Paisley Road West, Glasgow, G51 1NE ("the Homeowner")

James Gibb Residential Factors, 65 Greendyke Street, Glasgow, G1 5PX ("the Property Factor")

Tribunal Members:

Fiona Watson (Legal Member)

Elizabeth Dickson (Ordinary Member)

Background

In this Decision the Property Factors (Scotland) Act 2011 is referred to as the "2011 Act"; the Property Factors (Scotland) Act 2011 Code of Conduct for Property Factors effective prior to 16 August 2021 is referred to as the "2012 Code" and the Property Factors (Scotland) Act 2011 Code of Conduct for Property Factors effective from 16 August 2021 is referred to as the "2021 Code".

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("Tribunal") considered an application by the Homeowner submitted in terms of Section 17 of the 2011 Act. The Tribunal unanimously determined that the Factor 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 at OSP 2, 6 and 11 and Sections 2.7, 6.1 and 6.4. The Tribunal unanimously determined that the Factor had failed to comply with its factor duties in terms of section 17(5) of the 2011 Act. The Tribunal issued a decision dated

15 November 2023 ("Decision") along with a proposed Property Factor Enforcement Order.

On 8 January 2024 the Tribunal received written confirmation from the Homeowner that payment had been received from the Property Factor, in the sum as set out in the proposed Property Factor Enforcement Order.

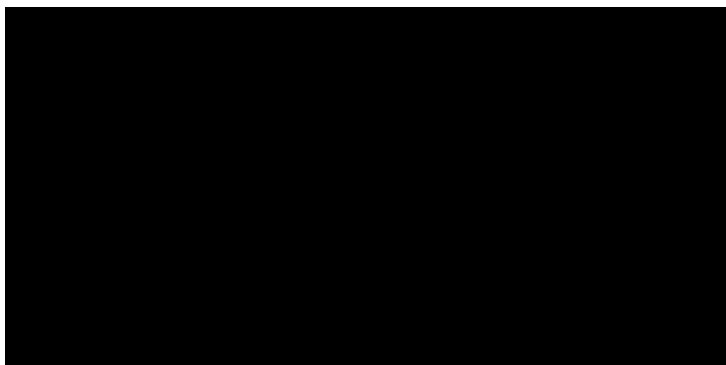
Decision

The Tribunal considered matters in light of the Overriding Objective set out in Regulation 2 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 and determined that in all the circumstances, as the Factor has complied with the proposed Property Factor Enforcement Order in the period between the issuing of the Decision and the period during which an appeal or review could be sought, it would not be appropriate to make a Property Factor Enforcement Order in this case.

The decision of the Tribunal was unanimous.

Appeals

In terms of section 46 of the Tribunals (Scotland) Act 2014 a homeowner or property factor 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.



Legal Member/Chair

Date: 9 January 2024