

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

Louise Day, 1/1 Harewood Road, Edinburgh EH16 4GF ("the Applicant")

**Residential Management Group, Unit 6, 95 Morrison Street, Glasgow G5 8BE
("the Respondent")**

Chamber Ref: FTS/HPC/PF/19/3788

Re: 1/1 Harewood Road, Edinburgh EH16 4GF ("the Property")

Tribunal Members:

John McHugh (Chairman) and Andrew Taylor (Ordinary (Surveyor) 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 1 April 2020 we found that the Respondent had breached its property factor's duties and 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 was in the following terms:

"Within 42 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 £300.

2 Carry out a reconciliation of the Applicant's account to identify any charges which have been imposed relating to the period before her ownership of the Property and any inappropriately allocated or double charged items; to report the outcome of the reconciliation to the Applicant and to refund any over charge to her.

3 To ensure that effective measures are in place in order that any mail addressed to any correspondence address used by the Respondent is received by the Respondent without delay.

4 Confirm in writing to the office of the Tribunal that steps 1-4 have been carried out."

The Respondent has contacted the office of the Tribunal to confirm: that the payment anticipated in the PFEO had been issued by the Respondent to the Applicant; that a reconciliation has been completed (and copies of the relevant statement of account has been presented) and that appropriate arrangements for the receipt of mail have been made.

The Applicant has confirmed her receipt of the payment and of the statement of account. She reported difficulty in understanding the reconciliation statement and the Tribunal sought clarification on this point from the Respondent. The Applicant has since confirmed that she is content with the Respondent's explanation.

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.

JOHN M MCHUGH

CHAIRMAN

DATE: 6 July 2020