

Housing and Property Chamber

First-tier Tribunal for Scotland



Certificate of Compliance following upon a Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) in an application under Section 17(1) of the Property Factors (Scotland) Act 2011.

Chamber Ref: FTS/HPC/PF/19/2269

78 Braehead, Methven Walk, Dundee, DD2 3JF (“The Property”)

The Parties:-

Miss Camilla Johnston, 78 Braehead, Methven Walk, Dundee, DD2 3JF (“the Homeowner”)

Ross and Liddell Ltd, Unit 19, City Quay, Camperdown Street, Dundee, DD1 3JA (“the Property Factor”)

Tribunal Members:

Martin J. McAllister, Solicitor, (Legal Member)

**Michael Scott, Chartered Surveyor, (Ordinary Member)
(the “tribunal”)**

Certificate of Compliance with Property Factor Enforcement Order dated 25th November 2019

The tribunal determines that the said Property Factor Enforcement Order has been complied with.

Terms of the Property Factor Enforcement Order (PFEO):

- 1. The Property Factor is to pay the total sum of £500 to the Homeowner as compensation for its breaches of the Code and for failing to comply with the property factor’s duties. The payment is to be made within thirty days of service of the property factor enforcement order.**

- 2. Within 30 days of service of the property factor enforcement order, the Property Factor is to take steps to establish the floor areas of the properties at 75 and 78 Braehead Methven Walk, Dundee by whatever methods appropriate and practical including inspection and reference to plans and, if it is established that the properties have had wrongly allocated common charges liabilities, to advise the owners of the properties in question and to correct such errors in future common charges accounts.**

Reasons for Decision

1. On 20th February 2020, the solicitors acting for the Property Factor wrote to the Tribunal submitting a form signed on behalf of their clients which stated that the actions required in the PFEO had been completed.
2. On 18th February the Homeowner emailed the Tribunal in the following terms: "Unfortunately Ross and Liddell are refusing to reimburse me for the error in my maintenance charge for the past 15 years." The email sought the assistance of the Tribunal and she was advised that it could not do so.
3. The Homeowner was written to on 7th July 2020 seeking her confirmation that the PFEO had been complied with. No response was received.
4. The members of the Tribunal considered matters and determined on the balance of probability that the PFEO had been complied with:
 - 4.1 The Property Factor's had intimated that it had been.
 - 4.2 Whilst the Homeowner had not specifically stated that the PFEO had been complied with, she had been given the opportunity to do so and had not.
 - 4.3 The Homeowner had sought assistance in having the historic position resolved and made no mention of the matters in the PFEO not being dealt with which it is reasonable to assume she would have done had there still been outstanding issues.

Appeals

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.

Martin J. McAllister
Legal Member
13th August 2020

