

# Housing and Property Chamber

## First-tier Tribunal for Scotland



**Decision of the First-tier Tribunal for Scotland Housing and Property Chamber issued under Section 19(1) of the Property Factors (Scotland) Act 2011 ("the Act") and The First-Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2016, in an application made to the Tribunal under Section 17 of the Act**

**Chamber reference: FTS/HPC/PF/17/0329**

**Re: Flat 33, Falcon House, 91 Morningside Road, Edinburgh EH10 4AY ('the property')**

**The Parties:**

**Mrs Ethel Thomson, residing at Flat 33, Falcon House, 91 Morningside Road, Edinburgh EH10 4AY ('the homeowner');**

**and**

**Places for People Scotland, incorporated in Scotland (Company registration Number 278428) and having its Registered Office at 1 Hay Avenue, Edinburgh EH16 4RW ("the property factor")**

**Tribunal members:**

**George Clark (Legal Member) and Mary Lyden (Ordinary Member)**

**Decision by the Housing and Property Chamber of the First-tier Tribunal for Scotland in an application under section 17 of the Property Factors (Scotland) Act 2011('the Act')**

On 11 December 2017, the Tribunal determined that the property factors had failed to comply with their duties under Section 14 of the Property Factors (Scotland) Act 2011 ("the Act") in that they had failed to comply with Section 6.6 of the Property Factors (Scotland) Act 2011 Code of Conduct for Property Factors ("the Code of Conduct").

The Statement of Decision containing the determination of the Tribunal stated that the Tribunal proposed making a Property Factor Enforcement Order in respect of the failure by the property factors to comply with their duties under Section 14 of the Act and the terms of the proposed Order were set out in a Notice under Section 19(2)(a) of the Act, issued with the Statement of Decision.

The proposed Order would have required the property factors to pay to the homeowner the sum of £100 by way of compensation for the distress and inconvenience caused to her by the failure of the property factors to comply with the Code of Conduct as required by Section 14(5) of the Act.

The Statement of Decision was issued to the parties on 5 February 2018. The parties were given 14 days to make any written representations.

On 19 February 2018, the property factors advised the Tribunal by e-mail that they had made payment of the sum of £100 by cheque sent to the homeowner on 15 February and, on 20 February 2018, the homeowner confirmed to the Tribunal by e-mail that she had received the cheque.

In light of the fact that the payment of compensation had been made by the property factors before the Tribunal made the Property Factor Enforcement Order, the Tribunal determined that it was no longer necessary to make the Order, as the property factors had already complied with its proposed terms.

The Decision is unanimous

## **DECISION**

**The Tribunal does not propose to make a Property Factor Enforcement Order.**

### **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.**

George Clark

Chairperson Signature ....

Date 22 March 2018