



Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) (formerly the Homeowner Housing Panel) issued under Section 26 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ('The Procedure Rules') in an application under section 17 of the Property Factors (Scotland) Act 2011 ('The Act').

Chamber Ref: FTS/HPC/PF/23/0797

Flat 0/1, 49 Craigmillar Road, Glasgow, G42 9HS ('the Property')

Maryam Mojab residing at Flat 0/1, 49 Craigmillar Road, Glasgow, G42 9HS ('the Homeowner')

Christine McKellar, Govan Law Centre ('the Homeowner's Representative')

James Gibb Residential Factors ('the Factor')

Tribunal members:

Jacqui Taylor (Chairperson) and Andrew McFarlane (Ordinary Member).

Background

1. The Homeowner is owner of the property **Flat 0/1, 49 Craigmillar Road, Glasgow, G42 9HS** ('the Property').

2. James Gibb Residential Factors are factors of the Property and were registered as a property factor on 23rd November 2012.

3. By C2 application dated 14th March 2023 the Homeowner applied to the Tribunal for a determination that the Factor had failed to comply with the following sections of the 2021 Property Factor Code of Conduct ('The Code'):

- Section 1: Written Statement of Services.
Section 2.7
- Section 2: Communications and Consultation.
Section 2.7
- Section 6: Carrying out Repairs and Maintenance

Section 6.4

- Section 7: Complaints Resolution

Section 7.1

4. The application had been notified to the Factor.

5. By Notice of Acceptance by Jacqui Taylor, Convener of the Tribunal, dated 23rd March 2023, intimated that she had decided to refer the application (which application paperwork comprises documents received on 14th March 2023) to a Tribunal.

6. The First Case Management Discussion.

A virtual Case Management Discussion ('CMD') took place in respect of the application at 10.00 am on 4th September 2023.

The Homeowner's Representative Miss McKellar attended.

The Factor was represented by Alastair Wallace. Hayley Robertson, Lorraine Stead and Jason Miller of James Gibb also attended.

6.1 The parties confirmed the following facts:

6.1.1 The Property is a ground floor flat within a tenement of eight flats.

6.1.2 The Homeowner purchased the Property in 1992.

6.1.2 The Factor has factored the Property since 2005.

6.1.3 The complaint relates to delays in having rot works carried out to joists under the floor of the Property.

6.1.4 In July 2022 the Factor accepted that the joists in question are the common property of the flats in the tenement.

6.2 In connection with the Application Miss McKellar confirmed that the application detailed breaches of the following sections of the Code of Conduct:

- Section 1: Written Statement of Services.

Section 2.7

- Section 2: Communications and Consultation.

Section 2.7

- Section 6: Carrying out Repairs and Maintenance

Section 6.4

- Section 7: Complaints Resolution

Section 7.1

She accepted that Section 1 had been included in error.

In connection with the breach of section 7.1 she explained that the complaint is that the complaints process was delayed.

She also explained that the Homeowner, Ms Mojab is disabled. The social work department had agreed to install a wet room in the Property but the installation was delayed due to the Factor delaying in arranging rot works to the joists under the Property. Ms Mojab has not been able to wash properly for two years. She understands that the works are now proceeding. However, Ms Mojab had been in hospital and consequently there has been a delay in arranging the start date for the works. She asked the Tribunal to agree to continue the CMD to allow time for the works to be completed.

6.3 Mr Wallace advised that the contractor Bromac are ready to proceed with the works. He understands that the works may take a day or two. He understands that there will be no disruption caused to the inside of the Property.

6.4 Outcome

The First Case Management Discussion was adjourned.

7. The Second Case Management Discussion.

A virtual Case Management Discussion took place in respect of the application at 14.00 pm on 23rd October 2023.

The Homeowner's Representative Miss McKellar attended.

The Factor was represented by Alastair Wallace. Hayley Robertson and Jason Miller of James Gibb also attended.

Miss McKellar advised that the works had now been completed and she asked the Tribunal to dismiss the application.

8. Decision

In all of the circumstances narrated above, the Tribunal dismissed the application.

9. 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.

Jacqui Taylor

Signed Date 23rd October 2023

Chairperson