



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Rule 26 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (The Procedure Regulations).

Case reference FTS/HPC/PF/23/1169

Parties

Mr Gerald Tonner (Applicant)

Residential Management Group Scotland (Property Factor)

16 Bond Place, Glasgow, G43 1AG (Property)

Tribunal Member: Jacqui Taylor (Legal Member)

1. The Tribunal rejects the application by the Applicant dated 13th April 2023, being an application under section 17(1) of the Property Factors (Scotland) Act 2011.

2. The Application states that the Applicant believes that the Property Factor has not complied with section 3.1 of the Code of Conduct as an improper payment request was made by the Property Factor.

3. The application is in the following terms:-

The First Complaint: The Property Factor charged the Applicant for a health, safety and type 1 fire risk assessment which he believes is improper as the assessments only covered flats in the developments.

The Second Complaint: The Property Factor has stated that they intend to instruct further assessments in the future which will result in the Applicant incurring further improper payment requests. The applicant is out of pocket by £4.85 and presumably will be again in the future and perpetuity.

4. The Applicant provided the Tribunal with a copy of an email from the Property Factor to the Applicant dated 20th March 2023 which states that the Property Factor will arrange to have the cost of the fire risk assessment credited to his account.

5. Rule 8 of the Procedure Regulations is in the following terms:

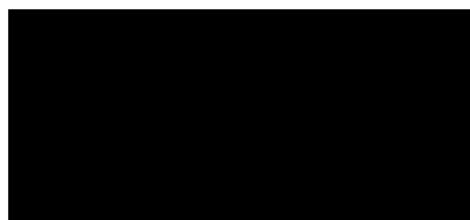
8(1) The Chamber President or another member of the First-tier Tribunal under the delegated powers of the Chamber President, must reject an application if—

- (a)they consider that the application is frivolous or vexatious;*
- (b)the dispute to which the application relates has been resolved;*
- (c)they have good reason to believe that it would not be appropriate to accept the application;*
- (d)they consider that the application is being made for a purpose other than a purpose specified in the application; or*
- (e)the applicant has previously made an identical or substantially similar application and in the opinion of the Chamber President or another member of the First-tier Tribunal, under the delegated powers of the Chamber President, there has been no significant change in any material considerations since the identical or substantially similar application was determined.*

6. As the Property Factor has agreed to refund the Applicant the charge of £4.85 the Tribunal consider the First complaint to have been resolved. In connection with the second complaint, the Tribunal do not consider it appropriate to accept a complaint of a potential future breach of the Code of Conduct that has not yet occurred.

7. Accordingly the Tribunal have good reason to believe that it would not be appropriate to accept the application and reject the application in terms of rules 8 (1)(b) and (c) of the Tribunal Rules.

8. In terms of Section 46 of the Tribunal (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



.....Legal Member Date: 10th May 2023