

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/20/2001

53 Rose Street, Aberdeen, AB10 1UB (“the Property”)

The Parties:-

Mr Daniel Buda, 7 Silverknowes Dell, Edinburgh, EH4 5QE (“the Homeowner”)

James Gibb Residential Factors, 2 Thistle Street, Aberdeen, AB10 1XZ (“the Property Factor”)

Tribunal Members

Ms H Forbes (Legal Member)

Mr A Anderson (Ordinary Member)

Decision of the Tribunal

The Tribunal having determined that the Property Factor Enforcement Order (“PFEO”) relating to the Property dated 26th July 2021 has been complied with, hereby certifies that the Property Factor has complied with the PFEO.

Reasons for Decision

1. Following a Hearing on 15th January 2021, the Tribunal determined that the Property Factor had failed to comply with the duty in Section 14 of the Property Factors (Scotland) Act 2011 (“the Act”) in respect of compliance with paragraphs 6.1 and 6.4 of the Property Factor Code of Conduct (“the Code”) as required by section 14(5) of the Act. The Property Factor had also failed in carrying out its property factor duties in terms of Section 17 of the Act. The Tribunal issued a proposed PFEO on 24th February 2021 ordering the Property Factor to pay the sum of £750 to compensate the Homeowner for the distress, frustration and inconvenience caused as a result of the Factor’s failures.
2. Parties were allowed the opportunity to comment upon the proposed PFEO. By email dated 5th March 2021, the Homeowner submitted an application for review of the Tribunal’s decision.

3. The Tribunal reviewed the decision and issued an amended statement of decision dated 27th May 2021. The terms of the proposed PFEO remained unchanged.

4. The Tribunal issued a PFEO dated 26th July 2021 in the following terms:

“The Factor is required to pay to the Homeowner within 14 days of intimation to them of the PFEO the sum of £750 from their own funds to compensate the Homeowner for the distress, frustration and inconvenience caused as a result of the Factor’s failure to comply with the Code of Conduct for Property Factors and the failure to carry out its property factor duties.”

5. By email dated 7th September 2021, the Property Factor informed the Tribunal that the proposed PFEO was complied with and payment made to the Homeowner in February 2021.
6. No information was received from the Homeowner in response to the compliance checks carried out.
7. The Tribunal is satisfied that the PFEO has been complied with by the Property Factor.

Right of Appeal

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.

Legal Member
12th October 2021