



First-tier Tribunal for Scotland (Housing and Property Chamber)

Compliance Decision:

Property Factors (Scotland) Act 2011, Section 19

The First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Regulations 2017 as amended (“the 2017 Regulations”)

Chamber Ref: FTS/HPC/PF/20/1535

2/3 2 Greenlaw Court, Yoker, Glasgow, G14 0PQ, Title number GLA188424 (“the Property”)

The Parties: -

**Mr Graeme Calderwood, residing at the Property
 (“the Homeowner”)**

**Newton Property Management Ltd, 87 Port Dundas Road, Glasgow, G4 0HF
 (“the Factor”)**

Tribunal Chamber Members

**Maurice O’Carroll (Legal Member)
Sara Hesp (Ordinary Member)**

Decision of the Chamber

The First-tier Tribunal (Housing and Property Chamber) (“the Tribunal”) determined that the Factor has complied in full with the terms of the Property Factor Enforcement Order (“PFEKO”) dated 11 March 2021 and therefore no further action on the part of the Factor is required.

Reasons for Decision

1. By decision of 22 February 2021, the Tribunal determined that the Factor had breached its duties in terms of s 14(5) of the 2011 Act in that it had failed to comply with sections 3 (preamble), 4.9 and 7.2 of the Code of Conduct for Property Factors as required by s 14(5) of that Act.
2. As required by section 19(2) of the Act, the Tribunal issued a Notice of a Proposed PFEKO. It did so on 25 February 2021, together with the said decision and invited representations thereon within 14 days of the Notice being received by the parties. No representations in relation to the content of the Notice were made by either party. Accordingly, the Tribunal issued a final Property Factor Enforcement Notice dated 11 March 2021 on 15 March 2021.

3. The PFEO so issued required the Factor to carry out the following within 28 days of the Notice:

Amend its Written Statement of Services so as to achieve the following:

- (i) Set a threshold amount for significant repairs and improvements over which sum they become notifiable and competitive quotes will be obtained from tradesmen;
- (ii) Delete the term "If we think it is in your interests" at paragraph (g) at page 2 and cross-refer to the threshold amount for significant repairs and improvements;
- (iii) Delete reference to the Deed of Conditions at paragraph (a) at page 3 and cross-refer the threshold amount for repairs and improvements;
- (iv) Delete the second paragraph (o) at page 5;
- (v) Explain how the float is used; and
- (vi) Indicate that the specifications for communal cleaning and gardening services are available for inspection at the offices of the Factor; and make provision for such inspection.

Cease using the term "underwriting fee" in communications with householders and only charge a further or additional management fee by reference to the authority provided for that within the WSS in the appropriate circumstances.

Pay compensation to the Homeowner in the sum of £500 (Five Hundred Pounds) in respect of the time and inconvenience to the Homeowner occasioned by the Factor's failure to comply with its factor duties under the Code. Said compensation, at the option of the Factor, may be deducted from the amounts currently due and owing by the Homeowner to the Factor and

Provide documentary evidence of compliance to the Tribunal with the above Order within 7 days of having done so.

4. On 5 March 2021, the Factor wrote to the Tribunal indicating that it has complied with the proposed PFEO. The Tribunal responded to state that the proposed PFEO was not a formal Order of the Tribunal. The final PFEO dated 11 March 2021 was the final Order of the Tribunal which required to be complied with. On 24 March 2021, the Factor wrote to the Tribunal confirming compliance with the above requirements of the final PFEO.
5. On 6 May 2021, the Homeowner confirmed to the Tribunal that the Factor had complied with the terms of the PFEO.
6. Having reviewed the correspondence from the Factor and Homeowner dated 24 March and 6 May 2021, the Tribunal was satisfied that the Factor had complied in full with the requirements of the PFEO dated 11 March 2021. It therefore determined to issue the present Certificate of Compliance.

Appeals

7. 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 within 30 days of the date the decision was sent to them.

Signed: M O'Carroll
Chairman

Date: 12 May 2021