

Housing and Property Chamber

First-tier Tribunal for Scotland



First-tier Tribunal for Scotland (Housing and Property Chamber) Property Factors (Scotland) Act 2011 ("the Act")

Certificate of Compliance and statement of reasons

Chamber Ref: FTS/HPC/LM/20/2593

Re.: Rozelle Avenue Place and Drive, Waterside, Newton Mearns, G77 6YS ("the property")

The Parties:-

Mr Peter Allish, 16 Rozelle Avenue, Newton Mearns, G77 6YS ("the homeowner")

Hacking and Paterson Management Services, 1 Newton Terrace, Glasgow, G3 7PL ("the property factor")

The Tribunal members: Simone Sweeney (legal chairing member) and Carol Jones (ordinary surveyor member)

Decision of the Tribunal

The Tribunal, having determined that the terms of the proposed amended Property Factor Enforcement Order ("PFEO") has been complied with, certifies that the Property Factor has complied with the PFEO.

Reasons for decision

1. Reference is made to previous procedure and, in particular, to the terms of the Tribunal's amended proposed PFEO dated 26th August 2021.
2. The proposed PFEO was in the following terms,

"Within 28 days from the date of issue of this order, for the property factor to:-

- *Provide to the homeowner payment of £250 by way of compensation for the time, preparation and inconvenience he has experienced in bringing this application.*
 - *To provide evidence of the above to the Tribunal's administration."*
3. Notice of the proposed PFEO was given to parties by email inviting them to make representations as required by section 19 (2) of the Act.
4. By email dated 9th September 2021, the property factor submitted that a cheque for the sum of £250 had been sent to the homeowner. A copy letter from the property factor to the homeowner, dated 9th September 2021 was attached to the email. The copy letter, insofar as is relevant, provided,
- "Dear Mr Allish...With reference to the above, please find enclosed a cheque for £250.00 in compliance with the decision of the First-tier Tribunal."*
5. No representations on the proposed PFEO were received from the homeowner. Rather an appeal was pursued by the homeowner to the Upper Tribunal for Scotland ("the UT").
6. Reference is made to the decision of the UT dated 21st December 2021.
7. The appeal process being at an end, the homeowner confirmed by email dated, 7th January 2022 that he had received payment from the property factors in satisfaction of the terms of the proposed PFEO.
8. Section 19 (3) of the Act provides,
- "If the committee are satisfied, after taking account of any representations made under subsection (2) (b), that the property factor has failed to carry out the property factor's duties or, as the case may be, to comply with the section 14 duty, the committee must make a property factor enforcement order."*
9. Having determined that the property factor has failed to carry out the property factor's duties as required by section 17 (1) (a) of the Act, the Tribunal issues a PFEO as required by section 19 (3) of the Act.
10. However, having determined that the property factor has already satisfied the terms of the PFEO by issuing a cheque to the homeowner in the sum of £250 which the

homeowner confirms to have received, the Tribunal determine that a certificate of compliance be issued.

11. 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 within 30 days of the date the decision was sent to them.
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Legal Chair, at Glasgow on 17th January 2022

First-tier Tribunal for Scotland (Housing and Property Chamber) Property Factors (Scotland) Act 2011 (“the Act”)

Certificate of Compliance and statement of reasons

Chamber Ref: FTS/HPC/PF/20/2593

Re.: Rozelle Avenue Place and Drive, Waterside, Newton Mearns, G77 6YS (“**the property**”)

The Parties:-

Mr Peter Allish, 16 Rozelle Avenue, Newton Mearns, G77 6YS (“**the homeowner**”)

Hacking and Paterson Management Services, 1 Newton Terrace, Glasgow, G3 7PL (“**the property factor**”)

The Tribunal members: Simone Sweeney (legal chairing member) and Carol Jones (ordinary surveyor member)

Decision of the Tribunal

The Tribunal, having determined that the terms of the proposed amended Property Factor Enforcement Order (“PFEO”) has been complied with, certifies that the Property Factor has complied with the PFEO.

Reasons for decision

12. Reference is made to previous procedure and, in particular, to the terms of the Tribunal’s amended proposed PFEO dated 26th August 2021.

13. The proposed PFEO was in the following terms,

“Within 28 days from the date of issue of this order, for the property factor to:-

- *Provide to the homeowner payment of £250 by way of compensation for the time, preparation and inconvenience he has experienced in bringing this application.*
- *To provide evidence of the above to the Tribunal’s administration.”*

14. Notice of the proposed PFEO was given to parties by email inviting them to make representations as required by section 19 (2) of the Act.

15. By email dated 9th September 2021, the property factor submitted that a cheque for the sum of £250 had been sent to the homeowner. A copy letter from the property factor to the homeowner, dated 9th September 2021 was attached to the email. The copy letter, insofar as is relevant, provided,

“Dear Mr Allish...With reference to the above, please find enclosed a cheque for £250.00 in compliance with the decision of the First-tier Tribunal.”

16. No representations on the proposed PFEO were received from the homeowner. Rather an appeal was pursued by the homeowner to the Upper Tribunal for Scotland (“the UT”).

17. Reference is made to the decision of the UT dated 21st December 2021.

18. The appeal process being at an end, the homeowner confirmed by email dated, 7th January 2022 that he had received payment from the property factors in satisfaction of the terms of the proposed PFEO.

19. Section 19 (3) of the Act provides,

"If the committee are satisfied, after taking account of any representations made under subsection (2) (b), that the property factor has failed to carry out the property factor's duties or, as the case may be, to comply with the section 14 duty, the committee must make a property factor enforcement order."

20. Having determined that the property factor has failed to carry out the property factor's duties as required by section 17 (1) (a) of the Act, the Tribunal issues a PFEO as required by section 19 (3) of the Act.

21. However, having determined that the property factor has already satisfied the terms of the PFEO by issuing a cheque to the homeowner in the sum of £250 which the homeowner confirms to have received, the Tribunal determine that a certificate of compliance be issued.

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



Legal Chair, at Glasgow on 13th January 2022

