

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/20/0209

Flat 3, Downie Drive, Larkhall, ML9 2LJ (“the Property”)

The Parties:-

Mr Henry Semple, 11 John Place, Heidelberg, Ontario, Canada (“the Homeowner”)

Miller Property Management, Suite 2.2, Waverley House, Caird Park, Hamilton, ML3 0QA (“the Factor”)

Tribunal Members

Ms Helen Forbes (Legal Member)

Mrs Elizabeth Dickson (Ordinary Member)

Decision of the Tribunal

The Tribunal certifies that the Factor has complied with the Property Factor Enforcement Order (“PFEFO”) dated 14th January 2021 relating to the Property.

Reasons for Decision

1. Following an application by the Homeowner and a Hearing on 22nd October 2020, the Tribunal determined that the Factor had failed to comply with the Section 14 duty in the Property Factors (Scotland) Act 2011 (“the Act”) in respect of compliance with the Property Factor Code of Conduct (“the Code”). The Tribunal made a PFEFO dated 14th January 2021 in the following terms:

“The Property Factor is required to:

- (i) Pay to the Homeowner within 21 days of intimation to them of the PFEFO the sum of £100 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

- (ii) Issue a written apology to the Homeowner within 21 days of intimation to them of the PFEO for the failure to comply with the Code of Conduct for Property Factors.

A copy of the letter of apology must be provided to the First-tier Tribunal for Scotland (Housing and Property Chamber)."

2. By email dated 18th January 2021, the Homeowner indicated that payment and a written apology had been made by the Factor by letter dated 3rd November 2020. The Homeowner provided a copy of the letter and cheque to the Tribunal.
3. No representations were received from the Factor.
4. Having considered the representations from the Homeowner, the Tribunal is satisfied that the PFEO has been complied with by the Factor. No further action is required by the Factor in terms of the PFEO which is now deemed to be completed.

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.

19th January 2021