



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

**Decision in respect of proposed Proposed Property Factor Enforcement Order
following a Decision under Section 17 of the Property Factors (Scotland) Act
2011 (“the Act”)**

Chamber Ref: FTS/HPC/LM/21/2188

Re: Property at 17 Silverholm Drive, Cleghorn, Lanark ML11 7SY (“the Property”)

Parties:

Mr Derek Tollan, 17 Silverholm Drive, Cleghorn, Lanark ML11 7SY (“the Homeowner”)

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

Tribunal Member:

Neil Kinnear (Legal Member) and Andrew Taylor (Ordinary Member)

DECISION

[1] The Tribunal determined that the Property Factor having carried out the actions required by the Tribunal’s proposed Property Factor Enforcement Order (“PFEO”), there was no need to make the PFEO.

[2] Having determined by Decision dated 7th November 2022 that the Property Factor had failed to comply with sections 2.1 and 2.4 of the Code of Conduct for Property Factors, the Tribunal gave Notice in accordance with Section 19(2)(a) of the Act that the Tribunal proposed the following PFEO. “Within 28 days of intimation of the PFEO, the Property Factor must make payment to the Homeowner of the sum of £862.29 in respect of the Property Factor’s failure to comply with sections 2.1 and 2.4 of the Code of Conduct for Property Factors in compensation.” The Tribunal invited the Parties to make representations on the proposed PFEO.

[3] By e-mail to the Tribunal dated 8th November 2022, the Property Factor confirmed to the Tribunal that it had made payment to the Homeowner of the sum of £862.29. By e-mail to the Tribunal dated 19th December 2022, the Homeowner’s representative

confirmed that the Homeowner had received payment of the sum of £862.29 from the Property Factor.

[4] The issue for the Tribunal was whether or not it required to make a PFEO. The Tribunal had regard to the fact that the Property Factor had complied with the terms of what would have been the PFEO, and determined that a formal PFEO was not required.

Right of Appeal

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.

06/02/2023

Legal Member

Date