

Housing and Property Chamber

First-tier Tribunal for Scotland



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

**Certificate of Compliance with the Property Factor Enforcement Order
("PFOE") dated 8 August 2018**

Chamber Ref: FTS/HPC/PF/18/0413

214 Prospecthill Circus, Glasgow, G42 0LF ("The Property")

The Parties: -

**Mrs Linda Higgins, 214 Prospecthill Circus, Glasgow G42 0LF
("the Homeowner")**

Your Place Property Management Limited, Wheatley House, 25 Cochrane Street, Glasgow, G1 1HL ("the Property Factor")

Tribunal Members:

**Josephine Bonnar (Legal Member)
David Godfrey (Ordinary Member)**

Decision

The Tribunal, having determined that the PFOE dated 8 August 2018 relating to the property has been complied with, certifies that the Property Factor has complied with the PFOE.

The decision of the Tribunal is unanimous.

Reasons for decision

In the Tribunal's decision of 8 August 2018, it made a PFOE in the following terms:

- (1) The Tribunal order the Property Factor to pay to the Homeowner the sum of £150 for her time, effort and inconvenience, within 28 days of intimation of the PFOE,
- (2) The Tribunal order the Property Factor to review and revise its written statement of services to provide homeowners with full details of all payments made by Insurance Companies to the Property Factor, including commission

and profit share arrangements, within 28 days of intimation of the PFEO,

- (3) The Tribunal order the Property Factor to review and revise its written statement of services to provide homeowners with information on the procedure for making insurance claims for common repairs, within 28 days of intimation of the PFEO, and
- (4) The Tribunal order the Property Factor to establish a procedure for the proceeds of insurance claims for common repairs to be paid direct to the Property Factor in all cases, within 28 days of intimation of the PFEO.

The PFEO was issued to parties on 10 August 2018.

On 7 September 2018 the Property Factor sent an email to the Tribunal with the following attachments:- (1) Copy letter dated 7 September 2018 addressed to the Homeowner enclosing cheque for £150, copy amended statement of services, print out from Your Place webpage relating to profit share arrangements and letter from Ageas Insurance Ltd, (2) Copy remittance advice for £150, (3) Copy letter from Ageas Insurance Ltd dated 24 August 2018 which refers to the Tribunals decision of 10 August 2018 and states that "with effect from 1 September 2018, all monies due and payable pursuant to the Agreement in respect of claims (as such term is defined in the Agreement) shall be paid directly to Your Place in the first instance as opposed to Insured Person...where the title deeds of the property which is the subject of the Claim state that monies are to be paid to Your Place", (4) Printout from Your Place website with details of profit share arrangements with insurance company and (5) Written Statement of services containing amended section on buildings insurance.

On 10 September 2018 the Homeowner confirmed to the Tribunal that she had received the letter from the Property factor dated 7 September 2018, with the various enclosures. She indicated that the documentation did not clearly articulate the procedure for common repair insurance claims, and whether there would be a joint claim or individual claims. The Homeowner did not otherwise dispute that the Property Factor had complied with the other parts of the PFEO.

The Tribunal proceeded to consider the terms of the amended buildings insurance section in the written statement of services provided by the Property Factor. The Tribunal notes that the section is more detailed than either of the previous versions considered by the Tribunal prior to issuing the PFEO. On page 7 of the written statement it says "Your policy booklet gives more information on your buildings insurance and how to make a claim. If you can't find it, just get in touch and we can email or post a copy to you". The written statement goes on to provide information on the insurance commission received and the profit share arrangements. Page 8 of the written statement provides details of how insurance companies are selected by the Property Factor. Lastly, on page 9, there is a section entitled "How to claim on your buildings insurance". It states "Making a claim for building insurance is quick and easy. It is your responsibility to make a claim for building insurance". There follows details of the insurer and the process. Although the Tribunal is of the view that the written statement could better articulate the position, by making it clear that common

repair claims are dealt with in the same way as other claims, the Tribunal is satisfied that the new insurance section provides better information on the insurance arrangements and that the statement " it is your responsibility to make a claim", does notify the homeowner that all claims are to be made by the individual homeowners and are not made by the Property Factor on their behalf.

The Tribunal also notes that the other parts of the RSEO have also been addressed by the documentation produced and the cheque sent to the Homeowner for £150.

The Tribunal is therefore satisfied that the Property Factor has now complied with the PFEO and that a certificate of compliance should be issued.

Appeals

A homeowner or property factor aggrieved by a 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.

Josephine Bonnar,
Legal Member

21 October 2018

