

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/20/1855

Property address: 2F1 Chilton, Gracefield Court, Musselburgh, EH11 6LL ("the Property")

The Parties

Ms Jane Calder, 2F1 Chilton, Gracefield Court, Musselburgh, EH22 6LL ("the Homeowner")

Charles White Ltd., Citypoint, 65 Haymarket Terrace, Edinburgh, EH12 5HD ("the Factor")

Tribunal Members

Ms H Forbes (Legal Member)

Mr J Blackwood (Ordinary Member)

Decision of the Tribunal

The Tribunal certifies that the Factor has complied with the Property Factor Enforcement Order ("PFOE") dated 1st March 2021 relating to the Property.

Reasons for Decision

1. Following an application by the Homeowner and a Hearing on 1st February 2021, 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 section 6.9 of the Property Factor Code of Conduct ("the Code") as required by section 14(5) of the Act, and had failed in carrying out its property factor duties in terms of Section 17 of the Act. The Tribunal made a PFOE dated 1st March 2021 in the following terms:

"The Factor is required to:

1. Remove the charge of £164 in respect of the Texc Roofing charges from the Homeowner's account; and

2. Pay to the Homeowner within 14 days of intimation to them of the PFEO the sum of £500 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 the failure to carry out its property factor duties."
2. By email dated 1st March 2021, the Homeowner confirmed that the PFEO had been complied with.
3. By email dated 2nd March 2021, the Factor confirmed that the PFEO had been complied with.
4. Having considered the representations from the parties, 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.

4th March 2021