



Decision of the First-tier Tribunal for Scotland Housing and Property Chamber issued under Section 19(1) of the Property Factors (Scotland) Act 2011 (“the Act”) and The First-Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, in an application made to the Tribunal under Section 17 of the Act

Chamber reference: FTS/HPC/PF/21/2349

The Parties:

Mr Alexander Carmichael, 2 Cambrae, Cromdale, Grantown on Spey PH26 3LL (“the homeowner”)

and

James Gibb Property Management Limited, registered as a limited company in Scotland (SC299465) and trading as James Gibb Residential Factors, with places of business at Bellahouston Business Centre, 423 Paisley Road West, Glasgow G51 1PZ and at 4 Atholl Place, Edinburgh EH3 8HT (“the property factors”)

The Property: 11 Hopper Gardens, Newcraighall, Edinburgh EH21 8RJ

Tribunal Members – George Clark (Legal Member/Chairman) and Ahsan Khan (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") decided that, as the property factors have paid to the Homeowner the compensation of £250 in respect of their failure to comply with their duties in terms of Section 3.2 of the Property Factors Code of Conduct ("the Code of Conduct") made under Section 14 of the Property Factors (Scotland) Act 2011 ("the Act"), that the Tribunal proposed to order them to pay, it was no longer necessary for the Tribunal to make a Property Factor Enforcement Order.

Reasons for Decision

On 22 December 2021, the Tribunal determined that the property factors had failed to comply with their duties in terms of Section 3.2 of the Property Factors Code of Conduct ("the Code of Conduct") made under Section 14 of the Property Factors

(Scotland) Act 2011. The Tribunal's Decision was intimated to the Parties and included a Notice made under Section 19(1)(a) of the Act of a Property Factor Enforcement Order that the Tribunal proposed to make, requiring the property factors to pay £250 compensation to the homeowner.

On 18 January 2022, the property factors advised the Tribunal that they had made the payment of £250 and on the same day, the homeowner confirmed that he had received and that it concluded the matter for him.

As the action which would have been required of the property factors had now been taken, the Tribunal decided that the proposed Property Factor Enforcement Order was no longer necessary.

The Tribunal's Decision was unanimous.

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.

Legal Member/Chair

9 February 2022

Date