

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Compliance Decision:

Property Factors (Scotland) Act 2011, Section 19

The First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Amendment Regulations 2017 (“the 2017 Regulations”)

Chamber Ref: FTS/HPC/PF/17/0156

**1239/1241 Cathcart Road, Glasgow, G42 9HA
 (“The Property”)**

The Parties:-

Mr Beinan Liu

(“the Applicant”)

Macfie & Co. Management Services Ltd.

(“the Respondent”)

Tribunal Members:

G. McWilliams (Legal Member)

S. Hesp (Ordinary Member)

Decision

The First-tier Tribunal (Housing and Property Chamber) (“the Tribunal”) unanimously determined that the Factor has complied in full with the terms of the Property Factor Enforcement Order (“PFEKO”) issued on 10th April 2018 and therefore no further action on the part of the Factor is required.

Reasons for Decision

1. By decision dated 29th January 2018, the Tribunal determined that the Respondent had breached its duties in terms of s 17(1)(b) of the Property Factors (Scotland) Act 2011 in that it had failed to comply with sections 2.2 and 3 of the Code of Conduct for Property Factors (“the Code”) as required by s 14(5) of that Act.
2. As required by section 19(2) of the Act, the Tribunal issued a Notice of a Proposed PFEKO on 2nd February 2018. The Tribunal invited representations thereon within 14 days of the Notice being received by the parties. It issued a

final version of the PFEO on 10th April 2018, no dispute as to the terms of the proposed PFEO having been made by either party.

3. The PFEO required the Respondent to do the following within 14 days of issue:

Send a letter to the Applicant apologising in respect of the intimidating language used in previous communications and providing the Applicant with an undertaking that there will be no further communications sent to him which contain intimidating terms.

4. On 10th April 2018, the Respondent wrote to the Tribunal stating that they had written a letter of apology to the Applicant on 12th February 2018. They attached a copy of the letter sent to the Applicant. The Applicant wrote to the Tribunal's Office on 8th April 2018 stating that he had received the Respondent's letter of apology dated 12th February 2018, on 19th March 2018. The Applicant stated that he accepted the terms of the letter of apology. The Tribunal noted that the terms of the Respondent's letter to the Applicant complied with the requirements of the PFEO. Accordingly the Tribunal is satisfied that the PFEO has been complied with in full.
5. In his e-mail sent on 8th April the Applicant referred to Court action costs being sought by the Respondent. At the Hearings in respect of the Applicant's Application the Tribunal had heard evidence and submissions from the parties in respect of previous Court proceedings. However the issue of responsibility for Court costs was not for determination by the Tribunal and did not form part of the PFEO. The Applicant is accordingly advised to obtain independent legal advice in respect of the issue of Court action costs.

Appeals

6. 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 within 30 days of the date the decision was sent to them.

Signed: G McWilliams
 Legal Member

Date: 9th May 2018