

Housing and Property Chamber

First-tier Tribunal for Scotland



**Decision of the First-tier Tribunal for Scotland Housing and Property Chamber
In an Application under section 17 of the Property Factors (Scotland) Act 2011**

by

James Brydie, 10 Kingsmere Road, Wimbledon, London SW19 6PX (“the Applicant”)

First Port Property Services Scotland, 3rd Floor, Troon House, 199 St Vincent Street, Glasgow G2 5QD (“the Respondent”)

Chamber Ref: FTS/HPC/PF/18/2318

Re: 2/9 Wishaw Terrace, Edinburgh EH7 6AF (“the Property”)

Tribunal Members:

John McHugh (Chairman) and Andrew Murray (Ordinary (Surveyor) Member)

DECISION

The Tribunal decides not to issue a Property Factor Enforcement Order.

The decision is unanimous.

REASONS FOR DECISION

In this decision we refer to the Property Factors (Scotland) Act 2011 as "the 2011 Act" and the Property Factors (Scotland) Act 2011 Code of Conduct for Property Factors as "the Code".

In our decision of 4 December 2018 we found that the Respondent had breached its duties arising under the Code. We provided the parties with a copy of a proposed Property Factor Enforcement Order ("PFEO") for their comment. The proposed PFEO provided as follows:

"Within 40 days of the date of the communication to the Respondent of this property factor enforcement order, the Respondent must:

- 1 Pay to the Applicant the sum of £37.06.*
- 2 Confirm in writing to the office of the Tribunal that step 1 above has been carried out."*

On 19 December 2018, the Respondent contacted the office of the Tribunal to confirm that the payment anticipated in the PFEO had been issued by the Respondent to the Applicant.

On 18 January 2019, the Applicant confirmed to the office of the Tribunal by email his safe receipt of the payment.

In the circumstances, issuing the PFEO would appear unnecessary and so we have elected in terms of section 19(1)(b) of the 2011 Act not to issue any PFEO in this case.

APPEALS

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.

JOHN M MCHUGH

CHAIRMAN

DATE: 22 January 2019