

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Decision of the Tribunal: Compliance with a Property Factor Enforcement Order dated 20 March 2018

Property Factors (Scotland) Act 2011, Section 19

Chamber Ref: FTS/HPC/PF/17/0274

Property at 27 Dempsey Court, Queens Lane North, Aberdeen, AB15 4DY (“The Property”)

The Parties: -

Mr David Gordon, residing at the Property (“the Homeowner”)

James Gibb Property Management Ltd, trading as James Gibb Residential Factors, 32 Charlotte Square, Edinburgh, EH2 4ET (“the Factor”)

Tribunal Members: -

Maurice O’Carroll (Legal Member)

Andrew McFarlane (Ordinary Member)

The Tribunal having received a response to its Direction dated 4 June 2018 has determined that the Property Factor Enforcement Order (“PFEO”) has been complied with.

1. By decision dated 17 January 2018, the Tribunal determined that the Factor had breached its duties in terms of s 17(1)(b) of the 2011 Act in that it had failed to comply with Sections 1 (preamble), 2.1, 2.4, 2.5, 3.3, 6.1, 6.3, 6.4 and 6.6 of the Code of Conduct for Property Factors as required by s 14(5) of that Act.
2. On the same date, it issued Notice of Proposed Property Factor Enforcement Order (“PFEO”). No representations in respect of the Proposed PFEO having been received, the Tribunal issued a final PFEO dated 20 March 2018.
3. By decision dated 1 June 2018, the Tribunal determined that the Factor had complied with requirements (i) to (iv) and (vi) of the PFEO. A Direction dated 4 June 2018 was issued in relation to requirement (v) which had not been complied with to the satisfaction of the Tribunal.
4. Under cover of an email dated 25 June 2018, the Factor submitted a supplementary report produced by Sergon to address the issues referred to in the decision of 1 June and the Direction dated 4 June 2018.

5. The Tribunal has determined that it is satisfied with the terms of the supplementary report and considers that the Factor has complied with the terms of the said Direction.
6. The Tribunal also finds that the Factor has complied with all of the terms of the PFEO and has issued the present decision accordingly.

Appeals

A homeowner or property factor 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.

M O'Carroll

Signed: M O'Carroll
Legal Member

Date 27 June 2018