

Housing and Property Chamber

First-tier Tribunal for Scotland



**First-tier Tribunal for Scotland (Housing and Property Chamber)
Decision issued by the Tribunal in respect of the Homeowner's application made under the
Property Factors (Scotland) Act 2011 section 19**

Chamber Reference: FTS/HPC/PF/19/2095

Property- 10 Neil Gordon Gate, Blantyre, G72 0AP

The Parties:-

Mr Jude Thaddeus Hughes, residing at 7 Augherainey Close, Donaghmore, County Tyrone, BT71 1XS ("the Homeowner")

And

Newton Property Management Limited, 87 Port Dundas Road, Glasgow, G4 0HF ("The Property Factor")

Tribunal:

Mr James Bauld (Legal Member)

Mrs Elaine Munro (Ordinary Member)

Introduction & Background

1. By application dated 27 June 2019 the Homeowner made an application to the Tribunal alleging breaches of the Code of Conduct for Property Factors.
2. The application was accepted and was referred to a Tribunal for determination and a hearing was set to take place on 1 November 2019 at 10am within the Glasgow Tribunals Centre, York Street, Glasgow. Appropriate intimation of that hearing was sent to both the Homeowner and the Property Factor.

Hearing

3. On 1 November 2019 the Tribunal members convened at the Glasgow Tribunals Centre for the hearing. The Homeowner was not present at the hearing nor was he represented. The Property Factors were represented by Mr Derek McDonald and Mr Martin Henderson.

4. The Tribunal were aware of another decision made under chamber reference FTS/HPC/PF/19/0247 which involved the same Property Factor and involved a different resident within the same development as the current application.
5. In this application, the Homeowner alleged that the Property Factor had breached certain sections of the Code of Conduct and in particular section 4 of the Code with particular reference to section 4.6. The Homeowner complained that the Property Factor had failed to keep homeowners advised with regard to debts that may affect them and that upon termination of the Property Factors appointment they had refused to refund a float of £250.
6. At the hearing, the two representatives from the Property Factor indicated that they were aware of the decision which had been made in the other case and that following upon that decision they had written to the Homeowner by letter dated 25 September 2019 and that they had recalculated the final invoice which had been sent to the Homeowner. They produced a copy of the letter and a copy of the final invoice. That invoice showed a balance due to the Homeowner of £249.88 and effectively involved the refund of the float and a re-credit of the debt which had been apportioned to the Homeowner.
7. The representatives from the Property Factor indicated that they had sent a cheque to the Homeowner but that he had not yet cashed it. They had emailed him again by email dated 28 October and had also sent a further email on the morning of the Tribunal asking him to confirm receipt of the cheque and confirm that matters had been concluded.
8. The Tribunal noted that Mr Hughes had not contacted the Tribunal to confirm that he had received further correspondence from the Property Factor or that he had received a cheque.
9. Accordingly the Tribunal took the view that the complaint which had been raised in the Homeowner's application had now been resolved. The Property Factors had taken steps to refund the float which had been requested by the Homeowner and in the absence of the Homeowner the Tribunal were unable to ascertain the full details of the complaint which had been lodged with the Tribunal.
10. Accordingly the decision of the Tribunal was that the application should be dismissed on the basis that the Homeowner, by failing to attend the hearing or communicate with the Tribunal, no longer seemed to wish to insist upon the application and that the resolution sought by the Homeowner in the application had already been undertaken by the Property Factor.
11. The decision of the Tribunal is unanimous and this application is dismissed.

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.

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Tribunal member

15 November 2015

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Date