

Housing and Property Chamber

First-tier Tribunal for Scotland



Certificate of the First-tier Tribunal for Scotland, Housing and Property Chamber, issued under the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2016

HOHP reference: HOHP/PF/15/0044

Re: 22 Tabard Place, Knightswood, Glasgow G13 3XF ('the property')

The Parties:

Sam Macartney, 22 Tabard Place, Knightswood, Glasgow G13 4XF ('the homeowner'); and
GHA (Management) Limited, registered in Scotland under the Companies Act 1985, Registered No. SC245072, trading as YourPlace Property Management and having its Registered Office at Granite House, 177 Trongate, Glasgow G1 5HF ("the property factor")

Tribunal members: George Clark (Legal member/Chair) and Brenda Higgins (Ordinary member)

The tribunal determined that the property factor has complied with the terms of the Property Factor Enforcement Order issued on 14 November 2016.

Signed G Clark

Dated 20 July 2017

Chairperson



Decision of the First-tier Tribunal for Scotland, Housing and Property Chamber, made under the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2016

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On 14 November 2014, the Homeowner Housing Committee ("the Committee") issued a Property Factor Enforcement Order on the Respondent in respect of the Property. The Committee members were George Clark (Legal member) and Brenda Higgins (Housing member)

The Property Factor Enforcement Order contained the following provisions:

"Within 2 weeks of the communication to the property factor of the PFEO, the property factor shall (1) re-issue to the homeowner the Common repair consent request letter and Common Repair Consent Form, stating the correct area of the roof that requires to be repaired and provide to the Committee proof of the posting of that documentation (2) send a written apology to the homeowner for its failure to complete Stage 2 of its complaints process (3) send the homeowner a letter confirming which elements of his complaint were upheld at Stage 1 and which (if any) were not upheld and (4) pay to the homeowner the sum of £100 by way of compensation for the inconvenience and distress caused by the property factor's failure to comply with the Property Factors (Scotland) Act 2011 Code of Conduct for Property Factors. "

The time allowed for compliance with the Order expired and the Homeowner Housing Panel ("HOHP") wrote to the Parties, asking them to confirm by 15 April 2016 whether or not the actions required in the Property Factor Enforcement Order ("the Order") had been completed. The homeowner responded on 2 April 2016 that no attempt had been made by the property

factor to meet or review the issues and that he had had no correspondence at all from the property factor.

Having considered the response from the homeowner, the Committee determined on 22 April 2016, that the property factor had not complied with the terms of the Property Factor Enforcement Order and that, in terms of Section 23(2) of the Property Factors (Scotland) Act 2011, the Committee was obliged to serve notice of that fact on the Scottish Ministers and this Decision was intimated to the Parties.

The property factor, by Summary Application, appealed the Decision on the ground that the Committee had erred in law, in that it had failed to have regard to relevant material, namely the information provided by the property factor to the Committee on 14 January 2016.

On 8 July 2016, the Sheriff of Glasgow and Strathkelvin, on the joint motion of the property factor and the Homeowner Housing Panel granted the application insofar as quashing the Decision of the Committee dated 22 April 2016 and remitted the matter back to the Committee to consider anew.

The jurisdiction of the Homeowner Housing Panel was transferred to the Housing and Property Chamber of the First-tier Tribunal for Scotland with effect from 1 December 2016 and the Committee members were appointed to be the Tribunal members to consider the matter anew.

The Tribunal considered the terms of an e-mail sent by the property factor to the Homeowner Housing Panel on 14 January 2016 and the documents attached to it. These comprised:- a copy of a letter sent by the property factor to the homeowner dated 12 January 2016, which sought his consent to a common repair; a Common Repair Description which stated the area of the roof that required to be repaired; and a copy of a letter sent by the property factor to the homeowner dated 13 January 2016, apologising for its failure to complete Stage 2 of its complaints process, confirming which elements of the complaint were upheld at Stage 1 and which were not upheld, and enclosing a cheque payable to the homeowner for £100 by way of compensation for the inconvenience and distress caused by the property factor's failure to comply with the Code of Conduct. The property factor did not provide proof of posting of the documentation required by the Order,

On 4 May 2017, the Tribunal wrote to the homeowner, giving him the opportunity to comment by 18 May 2017 on whether he agreed or disagreed that the actions specified in the Order had been carried out. The homeowner did not respond to that letter. He did, however, confirm by e-mail dated 20 July 2017 that he had received the paperwork issued by the property factor dated 12 and 13 January 2016, including the cheque for £100.

REASONS FOR THE DECISION

The Tribunal, having considered the terms of the property factor's e-mail of 14 January 2016 and its attachments and having received confirmation from the homeowner that he had received the correspondence from the property factor dated 12 and 13 January 2016 and the cheque for £100, was satisfied that the property factor had complied with the terms of the Order and that a Certificate of Compliance should be issued.

Signed G Clark

George Clark,
Legal member/Chair

Date 20 July 2017