

Housing and Property Chamber

First-tier Tribunal for Scotland



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

NOTICE OF VARIATION OF A PROPERTY FACTOR ENFORCEMENT ORDER

In terms of Section 21(1)(A) of the Property Factors (Scotland) Act 2011 ("the Act")

Chamber Ref: HOHP/PF/17/0137

Flat 4, 50, Cecil Street, Glasgow, G12 8RJ ("The property")

The Parties:-

Mrs. Patricia Grant residing at Albannach, 30 Linden Park Road, Milnathort, KY13 9XX ("the homeowner") and

James Gibb Residential Factors, having a place of business at 65, Greendyke Street, Glasgow G1 5PX ("The factor")

Tribunal Members

Karen Moore (Legal Member)

Colin Campbell (Ordinary Member)

Background

Having determined by Decision issued on 22 November 2017 that the factor had failed to comply with the property factor duties in terms of Section 17 of the Act, the tribunal proceeded to make a Property Factor Enforcement Order ("PFOE") dated 3 January 2018 as follows:-.

- "1. No later than 28 February 2018 the factor must write to all of the owners of properties in the block of flats of which the property forms part to call meeting of proprietors in terms of the title deeds to the said block with a view to seeking agreement of the owners to put a plan of preventative maintenance in place and provide a copy of the said letter to the tribunal;*
- 2. Thereafter, the factor must write to the tribunal to advise if the meeting referred to in 1 is to be held, and if so, advise the tribunal of the date and place of the meeting;*
- 3. If the said meeting is held, the factor must write to the tribunal within 7 days of the meeting to advise the tribunal of the outcome of the meeting and the action, if any, to be taken by the factor and*
- 4. No later than 28 February 2018 the factor must make payment of £250.00 to the homeowner in compensation for the inconvenience and stress caused to her and must make payment of £50.00 to her to represent a refund of the insurance excess*

paid by her in respect of the claim arising from the water damage caused in December 2016."

Decision and Reasons for Decision

Following the expiry of the time limit for compliance by the factor, the tribunal made enquiries of both parties in respect of compliance by the factor. Although, the tribunal was satisfied that parts 2, 3 and 4 of the PFEO had been complied with and that the factor had written to the owners of properties in the block of flats of which the Property forms as required by part 1 of the PFEO, and, even though the tribunal wrote to the factor after the expiry of the date for compliance to request a copy of the letter, the tribunal has not received a copy of it and so cannot be fully satisfied that this part of the PFEO has been complied with. Accordingly the tribunal varies the PFEO as follows:-

No later than 10 June 2018 the factor must provide to the tribunal a copy of the letter which it sent to all of the owners of properties in the block of flats of which the property forms part to call meeting of proprietors in terms of the title deeds to the said block with a view to seeking agreement of the owners to put a plan of preventative maintenance in place as required by the PFEO dated 3 January 2018.

Appeal

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

K Moore

Karen Moore

Chairperson

9 May 2018