

# 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

Alastair Thomson, 3/7 West Grange Gardens, Edinburgh EH9 2RA ("the Applicant")

James Gibb Property Management Ltd t/a James Gibb Residential Factors, 4 Atholl Place, Edinburgh EH3 8HT ("the Respondent")

Chamber Ref: FTS/HPC/PF/2556

Re: 3/7 West Grange Gardens, Edinburgh EH9 2RA ("the Property")

### Tribunal Members:

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

### Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") hereby determines that the Respondents' application for review is wholly without merit and refuses the application.

The decision is unanimous.

## **Reasons for Decision**

### The Decision under Review

On 2 July 2019, the Tribunal issued its decision that the Respondent had failed to carry out its duties under section 14 of the 2011 Act.

The Respondent has by its letter dated 18 July 2019 asked that the Tribunal "correct" its Decision. The letter is headed "...Response to Proposed PFEO". The Respondent has not formally requested a review. Nonetheless, we are of the view that some of the content of the Respondent's letter and the fact that it arrived within the timescale during which review was available, suggest that it is appropriate to treat the letter as a formal application for review. Those sections of the letter which contain comments on the Proposed PFEO are dealt with in a separate decision.

### Basis for Review

The Applicant seeks review on the basis that it disagrees with the Tribunal's Finding that the Respondent sent reminders after having been alerted to billing errors. The objection is that there was only a singular reminder sent in error as opposed to multiple reminders.

The Respondent also request by way of clarification that the Decision highlight that works were delayed by the presence of private window works.

### Reasons for Decision

As regards the issue of multiple reminders, we do not accept that there is a mistake in the Decision. We accepted the evidence that there were multiple reminders and in any event the number of reminders is immaterial to the finding of a breach of the Code in this respect.

As regards the need for private window works, while the presence of private windows is a fact, we are not satisfied that anything material to the Decision rests upon that fact and we are not inclined to make any alteration to the Decision.

We consider that the Applicant's application for review is without merit.

**Decision**

We consider the application for review to be totally without merit in terms of Rule 39(3) of the Tribunal Procedure Rules. The application is refused.

This Decision is not subject to appeal.

**Signed .**

**JOHN M MCHUGH**

**Chairing Member**

**Date 5 September 2019**