



Decision

Section 17 of the Property Factors (Scotland) Act 2011 and the Property Factors (Scotland) Act 2011 Code of Conduct for Property Factors.

Chamber Ref: FTS/HPC/PF/21/3219 and FTS/HPC/PF/22/2246

Re: Property at 55 Kelvin Court, Glasgow, G12 0AG (“the Property”)

Parties:

Mrs Catriona Graham (“the Applicant” and “Homeowner”)

Newton Property Management limited, 87 Port Dundas Road, Glasgow, G4 0HF (“the Respondent” and “Property Factor”)

Tribunal Member:

Martin McAllister, solicitor, (Legal Member) and Robert Buchan, chartered surveyor, (Ordinary Member) (“the tribunal”)

Background

1. The tribunal issued a decision and proposed property factor enforcement order (PFEО) on 15th June 2023 which was served on parties on 16 June 2023.
2. The proposed PFEО was in terms requiring the Property Factor to pay the sum of £750 to the Applicant. Parties were invited to respond to the proposed PFEО. Neither made representations.
3. On 30 June 2023, the Property Factor produced evidence that the sum of £750 had been credited to the factoring account of the Applicant. It also submitted a copy of an email from the Applicant asking them to do so in view of the “award” made by the tribunal.

Decision

4. The tribunal noted that neither party had made representations on the proposed PFEO. It accepted that the Applicant had asked for £750 to be credited to her account with the Property Factor.
5. The tribunal accepted the evidence that the Property Factor had credited the sum of £750 to the Applicant's account with them.
6. In terms of Section 19(3) of the 2011 Act, the Tribunal must make a PFEO where it is determined that "the property factor has failed to carry out the property factor's duties or, as the case may be, to comply with the section 14 duty."
7. In all the circumstances and, for the reasons outlined in its decision of 16 June 2023, the tribunal determined to make a PFEO. In view of the credit of £750 made to the Applicant's account with the Property Factor, the tribunal determined to issue a certificate of compliance confirming that the PFEO has been complied with.

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.

**Martin J. McAllister
Legal Member
9 August 2023**