

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) issued under Section 19(1) of the Property Factors (Scotland) Act 2011 ("the Act") and The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 in an application made under Section 17 of the Act.

Chamber Ref: FTS/HPC/PF/17/0281

Re: 15C Lothian Road, Greenock, PA16 0PG ("the Property")

The Parties:-

Ms Lynnette Britton, 15C Lothian Road, Greenock, PA16 0PG ("the Homeowner")

River Clyde Homes, Roxburgh House, 102-112 Roxburgh Street, Greenock PA15 4JT ("the Factor")

Tribunal Members

Ms Helen Forbes (Legal Member)

Ms Elaine Munroe (Ordinary Member)

Background

On 1st June 2018, the Tribunal determined that the Factor had failed to comply with their duties under Section 14 of the Act in that they had failed to comply with sections 2.5 and 3.3 of the Property Factors Code of Conduct ("the Code").

The Statement of Decision containing the determination of the Tribunal stated that the Tribunal proposed making a Property Factor Enforcement Order ("PFEO") in respect of the failure by the Factor to comply with their duties under Section 14 of the Act and the terms of the proposed PFEO were set out in a Notice under Section 19(2)(a) of the Act, issued with the Statement of Decision.

The proposed PFEO would have required the Factor to write a letter of apology to the Homeowner for their failure in relation to responding timeously to enquires and complaints, and their failure to provide a detailed financial breakdown of charges made and a description of the activities and works carried out which are charged for; provide the Homeowner with a detailed financial breakdown of charges made and a description of the activities and works carried out which are charged for, from 2013

to date; and pay the Homeowner from their own funds the sum of £100, to reflect the strain and anxiety experienced by the Homeowner over the lack of compliance with the Code, within three weeks of the issuing of the PFEO.

The Statement of Decision was issued to the parties on 21st June 2018.

On 5th July 2018, the Factor informed the Tribunal that the requirements of the proposed PFEO had been complied with in full.

On 18th July 2018, the Homeowner confirmed that she had received the documentation and payment set out in the proposed PFEO.

As the terms of the proposed PFEO had been complied with before the Tribunal made the PFEO, the Tribunal determined that it was no longer necessary to make the Order.

The decision of the Tribunal is unanimous.

Decision

The Tribunal does not propose to make a Property Factor Enforcement Order.

Right of 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.

Helen Forbes

Legal Member and Chairperson

23rd July 2018