



Statement of Decision with Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 17 of the Property Factors (Scotland) Act 2011 (“the Act”) and Rule 17 (4) of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”)

Reference numbers:

FTS/HPC/22/4473

Re: 9U, Melvaig Place, Glasgow, G20 8EY (“the Property”)

The Parties:

Mrs Pei Yuen Foo residing at 3/1, 39, Peel Street, Glasgow G11 5LU, (“the Homeowner”)

Wheatley Homes Glasgow Limited having a place of business at Wheatley House, 25 Cochrane Street, Glasgow G1 1HL (“the Property Factor”)

Tribunal Members

Karen Moore (Chairperson) Colin Campbell (Ordinary Member)

Decision

The Tribunal determined not to make a Property Factor Enforcement Order.

Background

1. Having determined by Decision dated 18 August 2023 that the Property Factor had failed to comply with the Section 14 duty and its Property Factor’s Duties in terms of the Act, and having determined to issue a Property Factor Enforcement Order (“PFEO”), the Tribunal gave Notice in accordance with Section 19(2)(a) of the Act that the Tribunal proposed the following PFEO and invited the Parties to make representations no later than 8 September 2023:-

“Proposed PFEO: No later than [4 weeks from date of PFEO] the Property Factor must at its own cost and expense:

Cancel the invoice from the Property Factor for £1,165.58 for “Lowther Common Improvements” so that this sum is removed from the Homeowner’s common charges account;

Instruct its solicitors to withdraw the Simple Procedure debt actions from Glasgow Sheriff Court with no expenses or legal costs due to the Homeowner;

Compensate the Homeowner in the sum of £500.00 by a direct payment and not by a credit to her common charges account for the inconvenience, stress and frustration caused to her by the Property Factor's actions;

Carry out a review of the way in which the Property Factor identified the need for the LED works which are at the core of the Homeowner's Application, the way in which the work was tendered and awarded, including the consultation, if any, with the owners, the way in which the invoice was raised and the circumstances of the Simple Procedure debt actions being raised against the Homeowner to identify training needs and implement the required training programme.

Evidence to the Tribunal that items 1-4 above have been carried out."

2. Representations were made by both Parties to the effect that the Property Factor had complied with the terms of the Proposed PFEO.
3. Accordingly, there is no need for the Tribunal to make a formal PFEO.

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.

Signed

Karen Moore, Chairperson

10 November 2023