

# Housing and Property Chamber

## First-tier Tribunal for Scotland



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

Statement of Decision by the First-tier Tribunal for Scotland (Housing and Property Chamber) in an application under Section 23 of the Property Factors (Scotland) Act 2011 (“the Act”)

Chamber Ref: FTS/HPC/PF/23/4648 and FTS/HPC/PF/4649

Re: Property at Flat 8, 367 Argyle Street, Glasgow, G2 8LT and Flat 17, 367 Argyle Street, Glasgow, G2 8LT (“the Property”)

#### Parties:

Mr Mohit Gajri, 12 Corstorphine Bank Drive, Edinburgh, EH12 8RS (“the Applicant”)

91BC, Garscadden House, 3 Dalsetter Crescent, Glasgow, G15 8TG (“the Respondent”)

#### The Tribunal comprised:-

Ms Ruth O’Hare - Legal Member  
Mrs Helen Barclay - Ordinary Member

#### Decision of the Tribunal

The Tribunal having determined that the Property Factor Enforcement Order dated 9 May 2024 (‘PFEO’) relating to the Property has been complied with, certifies that the Respondent has complied with the PFEO.

#### Reasons for the Decision

1 On 9 May 2024 the Tribunal issued a PFEO in the following terms:-

*“The Property Factor is required to:-*

- (a) *pay to the Homeowner within 14 days of intimation to them of the PFEO the sum of £100 from their own funds to compensate the Homeowner for the frustration and inconvenience caused as a result of the Property Factor’s failure to comply with the Code of Conduct for Property Factors;*
- (b) *update the Written Statement of Services within 14 days of intimation to them of the PFEO to reflect the change in service delivery in respect of the service portal which is now managed by otagoTech Ltd together with clear information as to any mutual interests between the Property Factor and the company; and*

(c) *provide the Homeowner within 14 days of intimation to them of the PFEO with clear information as to the calculation of the charge levied in respect of the service portal including details of the fee charged by otagoTech Ltd in the form of an unredacted invoice.”*

- 2 On 28 May 2024 the Applicant sent the Tribunal an email confirming that he had received a payment of £100 from the Respondent together with the unredacted invoice. However he advised that, whilst he had received an updated Statement of Services, this had been after the 14 day period as stated in the PFEO. Furthermore the Respondent had not updated the Statement of Services on their website and the Declarations of Interest section did not divulge any information about the relationship between the Respondent and otagoTech. The Tribunal contacted the Respondent’s representative who confirmed by email dated 18 June 2024 that the Statement on the Respondent’s website had been updated and all clients would be advised of the changes as part of the next invoice run on 30 June 2024.
- 3 The Tribunal took into account the Applicant’s comments in reaching its decision however ultimately the Tribunal was satisfied that the Respondent had complied with the PFEO. Whilst the Applicant had stated that the Statement of Services had been provided to him outwith the timescales set in the PFEO the Tribunal considered this to be *de minimis*. The Tribunal was satisfied that the Statement of Services was now available to all clients, and that it made reference to the Respondent’s relationship with otagoTech Ltd at page 15. The Applicant had queried why this information was not contained within the Declarations of Interest section, however the Tribunal took the view that there was no requirement for this under the terms of the PFEO. Furthermore the Declarations of Interest section relates specifically to any interest the Respondent has within the building or development. The business relationship between the Respondent and otagoTech is a separate matter and the Tribunal considered it was appropriate that this be addressed elsewhere in the Statement.
- 4 The Tribunal therefore issues this Certificate of Compliance. No further action is required by the Respondent in terms of the PFEO.

## **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.**

Signed

Ruth O'Hare  
Legal Member and Chairperson

2 July 2024

