

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

Margaret Albrow, 46 Crathes Court, Hazelden Gardens, Muirend, Glasgow G44 3HE (“the Applicant”)

James Gibb Residential Factors, 65 Greendyke Street, Glasgow G1 5PX (“the Respondent”)

Re: Property at 46 Crathes Court, Hazelden Gardens, Muirend, Glasgow G44 3HE (“the Property”)

Tribunal Reference: FTS/HPC/22/4452

Tribunal Members:

John McHugh (Chairman) and Ahsan Khan (Ordinary (Housing) Member).

DECISION

The terms of the Property Factor Enforcement Order have been complied with.

The decision is unanimous.

Introduction

In this decision we refer to the Property Factors (Scotland) Act 2011 as “the 2011 Act”; the Property Factors (Scotland) Act 2011 Code of Conduct for Property Factors as revised with effect from 16 August 2021 as “the Code” and the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as “the 2017 Regulations”.

The Tribunal had available to it, and gave consideration to, all of the documents lodged on behalf of the Applicant and the Respondent.

History

On 24 June 2024 the Tribunal made a Property Factor Enforcement Order (“PFEO”) requiring the Respondent to take the following steps within 35 days:

- 1 *Credit to the factoring account of all homeowners in the Development as at 1 October 2021 the total sum of £19,881.01 such sum to be credited to the individual homeowners’ factoring accounts in accordance with their liability to pay a share of the electricity cost.*
- 2 *Pay to the Applicant the sum of £1500, such sum to be by cheque or bank transfer as opposed to by credit to her factoring account.*
- 3 *Confirm in writing to the office of the Tribunal that steps 1-2 above have been carried out.”*

REASONS FOR DECISION

In terms of section 23(1) of the 2011 Act, the Tribunal is to determine whether the Respondent has complied with the PFEO.

The Tribunal gave consideration to the extent to which the PFEO had been complied with.

The Tribunal invited the parties to make written submissions on the extent to which the PFEO has been complied with.

The Respondent by communication dated 4 July 2024 confirmed that credits had been made to all homeowners’ accounts on 22 April 2024 and that the payment required to be made to the Applicant had been made on 18 March 2024.

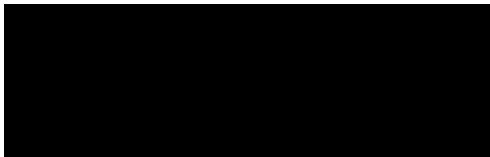
The Applicant by communication dated 12 August 2024 confirmed receipt of the payments which were to be made directly to the Applicant but, understandably, could

not comment on whether other homeowners had received their payments. The Applicant issued a further communication on 23 August 2024 in which she raised a fresh matter, being the inclusion in a recent bill by the Respondents of their legal fees. That new issue does not relate to compliance with the PFEO.

Having regard to the parties' submissions, the Tribunal finds that the PFEO has been complied with.

APPEALS

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.



JOHN M MCHUGH
CHAIRMAN

DATE: 14 October 2024