

Housing and Property Chamber First-tier Tribunal for Scotland



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

Property Factor Enforcement Order following a Decision under Section 17 of the Act.

Reference number:

FTS/HPC/PF/23/1724 ("the Application")

Re: 2F1, Chilton, Gracefield Court, Musselburgh, EH21 6LL ("the Property") ("the Application").

The Parties:

Mrs. Jane Calder residing at Pyat Shaws Cottage, Longyester, Near Gifford, EH41 4PL ("the Homeowner") per her representative, Mr. Garry Calder, of the same address.

Charles White Limited, having a place of business at 14 New Mart Road, Edinburgh, EH14 1RL ("the Property Factor")

Tribunal Members

Karen Moore (Chairperson) and David Godfrey (Surveyor and Ordinary Member)

Background

1. Having determined by Decision dated 16 September 2024 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 of its proposed PFEO and invited the Parties to make representations.
2. The Homeowner did not make any representations. The Property Factor noted a missing word in respect of item 2 of the Proposed PFEO.
3. Accordingly, the Tribunal makes the following PFEO:

PFEO:

No later than 31 December 2024 the Property Factor must at its own cost and expense

1. refund to the Homeowner her share of the cost of the AGM held on 16 June 2022 and pay to her the sum of £100.00 in compensation for the inconvenience which the Property Factor has caused her in regard to this aspect of her complaint;
2. correct its Written Statement of Services with regard to the erroneous references to the Deed of Declaration of Conditions by Malcolm Bremner Homes Limited recorded in the G.R.S. (Midlothian) on 13 October 1987 which affects the Property;
3. review its procedures in respect of the process and protocols for dealing with calling meetings for the development of which the Property forms part to ensure that the calling of meetings conforms to the said Deed of Declarations relating to meetings or to the Property Factor's own custom and practice and set these out in a written document as a Standard Operating Procedure for staff and customers in a written document;
4. correct its Written Statement of Services with regard to the said reviewed process and protocols for dealing with calling meetings;
5. issue the said reviewed process and protocols Standard Operating Procedure to the Homeowner;
6. issue the said reviewed process and protocols Standard Operating Procedure to relevant staff and train relevant staff in the said Standard Operating Procedure and
7. evidence to the Tribunal that items 1-6 above have been carried out.

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.

Karen Moore,
Chairperson

19 November 2024