

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Certificate of Compliance following upon a decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) in an application under Section 17(1) of the Property Factors (Scotland) Act 2011

Chamber Ref: FTS/HPC/PF/23/1217

Re: Flat 1/3 10 Archerhill Square, Glasgow G13 4TD

Parties:

Mr Kashif Naeem, 223 Auldhouse Road, Glasgow G43 1DF (“the Homeowner”)

Lowther Homes Limited, Wheatley House, 25 Cochrane Street, Glasgow G1 1HL (“the Factor”)

Tribunal Member:

**Graham Harding (Legal Member)
Elizabeth Dickson (Ordinary Member)**

Decision

The Tribunal has determined that the Factor has complied in full with the terms of the Property Factor Enforcement Order (“PFEO”) issued on 31 March 2024 and that the Failure to Comply Decision issued on 5 August 2024 should be recalled and that thereafter no further action is required.

The decision is unanimous.

Statement of Reasons

1. By decision issued on 20 November 2023, the Tribunal determined that the Factor had failed to comply with its duties under section 14(5) of the Property factors (Scotland) Act 2011.
2. The Tribunal issued a Notice of Proposed PFEO together with the decision on 20 November 2023 and invited representations within 14 days of the Notice being received by the parties.

3. The Tribunal did not receive any representations from the parties until the Homeowner advised the Tribunal in an email dated 30 January 2024 that he had received payment of £500.00 and had been assigned a named Property Manager in accordance with the terms of the Proposed PFEO.
4. By email dated 13 March 2024 the Homeowner further commented and advised that he had not received any further communication from the Factor.
5. By its decision dated 31 March 2024 the Tribunal determined to issue a PFEO which required the Factor to: Refund the Homeowner all of the management fees and concierge fees charged to the Homeowner's account since 16 August 2021, the date on which the Code of Conduct came into force; and evidence the Tribunal that this had been carried out within a period of one month from the date of issue of the PFEO.
6. By emails dated 14 May and 31 May 2024 the Homeowner advised that the Factor had not completed the actions required by the PFEO.
7. By its decision dated 5 August 2024 the Tribunal determined that the Factor had failed to comply with the PFEO.
8. By email dated 19 August 2024 the Factor submitted written representations to the Tribunal confirming that the terms of the PFEO had been met in December 2023 and in advance of the PFEO being issued.
9. By email dated 21 August 2024 the Homeowner accepted that he had received payment as specified in the PFEO but raised further issues as regards the Factor's conduct.
10. By email dated 22 August 2024 the Factor confirmed it was seeking a review of the Tribunal's decision of 5 August 2024.
11. By its decision dated 24 October 2024 the Tribunal determined that the Factor's application for review should be granted.
12. The Tribunal having considered matters and being satisfied that the PFEO has been complied with by the Factor has determined that the Failure to Comply Decision dated 5 August 2024 should be recalled and that thereafter no further action is required.

Right of Appeal

13. 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 within 30 days of the date the decision was sent to them.

Graham Harding
Legal Member and Chairperson

24 October 2024