



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 (“the Act”)

Reference numbers: FTS/HPC/PF/21/0559 and FTS/HPC/PF/22/2067

Property at Flat 16, 31 Simpson Loan, Edinburgh EH3 9GG (“the property”)

Parties:

Professor Roya Sheikholeslami, residing at the property (“the homeowner”)

Speirs Gumley Property Management, Red Tree Magenta, 270 Glasgow Road, Glasgow G73 1UZ, registered number PF 000160 (“the factors”)

Tribunal Members:

Jim Bauld (Legal Member) Robert Buchan (Ordinary, Surveyor Member)

DECISION

The Tribunal decides not to issue a Property Factor Enforcement Order.

The decision is unanimous.

Background

1. By applications dated 10 March 2012 and 28 June 20223 the homeowner applied to the Tribunal for a determination on whether the factor had failed to comply with various sections of both the original Code of Conduct for Property Factors (“the original code”) which was introduced with effect from 1 October 2012 and the revised Code of Conduct which was introduced with effect from 16 August 2021 (“the revised code”) as imposed by section 14 of the Property Factors (Scotland) Act 2011 and to carry out the property factor duties in terms of section 17 (1) (a) of the Property Factors (Scotland) Act 2011 (hereafter referred to as “the 2011 Act”).



2. The applications were accepted by the tribunal and referred for determination by the tribunal.

Hearing

3. After significant procedure extending over a lengthy period of time, the tribunal issued a decision dated 7 August 2024 in which it indicated that it did not intend to make a property factor enforcement order (“PFEO”).
4. The Parties were invited to make representations as allowed by section 19 of the 2011 Act and upon receipt of same the tribunal indicated it would then decide on its final decision or any further procedure

Subsequent representations

5. Subsequent to the issue of the decision of 7 August 2024, the respondent sent an email dated 22 August 2024 to the tribunal administration confirming that they agreed with the decision and had no suggestions for any additional procedure. The applicant did not respond to the invitation to make further representations.

Decision

6. In the circumstances the tribunal has elected in terms of section 19 (1) (b) of the 2011 Act not to make a PFEO in this case

Right of Appeal

In terms of Section 46 of the Tribunal (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.

Date: 29 October 2024

Legal Member: