

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 19 of the of the Property Factors (Scotland) Act 2011 (“the Act”)

Reference number: FTS/HPC/PF/23/1224

Property at Rowardennan Lodges, Rowardennan, Stirlingshire, G63 0AR (“the Property”)

The Parties:

Mr. Adrian McNally residing at 49, Academy Place, Bathgate, West Lothian, EH48 1AS (“the Homeowner”)

Blythswood Property Management, Munro House, Quarrywood Court, Livingston, EH54 6AX (“the Property Factor”)

Tribunal Members

Karen Moore (Chairperson) Carol Jones (Ordinary Member)

Background

Having determined by Decision dated 25 July 2024 that the Property Factor had failed to comply with the Section 14 duty in terms of the Act and having determined to issue a Property Factor Enforcement Order (“PFEO”) and having given Notice and heard the Parties in accordance with Section 19(2)(a) of the Act, the Tribunal makes the following PFEO:

1. No later than **21 February 2025**, the Property Factor must send to Scottish Power, as the utility supplier for the electricity supply which eventually supplies the lodge owned by the Homeowner, a letter in the following terms. The Property Factor should insert the relevant details at the appropriate sections :

“Addressee [Property Factor to identify correct addressee]

Heading: Account Number [Property Factor to insert]

MPAN: [Property Factor to insert]

Homeowner: Mr. Adrian McNally

Property: Lodge [Property Factor to insert lodge number or identifier]

Dear Sirs,

As Ordered by the First-tier Tribunal for Scotland (Housing and Property Chamber) in terms of Section 19 of the Property Factors (Scotland) Act 2011, I write to you for clarification of the appropriate rate of VAT to be applied in respect of the electricity supplied to the above lodge.

Please clarify and confirm if the VAT should be 20% or 5%.

The facts of the matter are:

Blythswood Property Management are the property managers of the holiday chalet complex at Rowardennan G63 0AR;

Lodge [Property Factor to insert lodge number or identifier] forms part of that complex;

Electricity is supplied to the holiday chalet complex and the lodge via an adjacent site;

The main supply of electricity to the adjacent site is metered to MPAN: [Property Factor to insert];

The primary or main supply is invoiced to Account Number [Property Factor to insert];

The primary or main supply is received within land outwith the lodge [Property Factor to insert lodge number or identifier];

The VAT at the rate of 20% is applied to the main supply invoice;

The supply is distributed to a central meter which serves the lodge and other lodges all situated within the holiday chalet complex;

The supply is then distributed further and sub-metered to the lodge [Property Factor to insert lodge number or identifier];

A reading is taken at the sub-meter for the usage at the said lodge;

The electricity usage is apportioned against the main supply usage and invoiced accordingly;

Blythswood Property Management act on behalf of the owner of the land to which the primary or main supply is distributed and metered in respect of the apportioning the cost of supply to the said lodge;

Blythswood Property Management act on behalf of the owner of the land to which the primary or main supply is distributed in respect of the collection of the apportioned cost of the supply to the said lodge;

The 20% rate of VAT has been applied to the cost of the sub-metered supply to the lodge;

The lodge is a holiday home and treated as non-domestic for rating purposes;

Please clarify if 20% is the correct rate of VAT to be applied to the supply to the said lodge or if the rate should be the lower rate of 5%.”

2. The Property Factor should provide a copy of the letter with proof of sending to both the Tribunal and the Homeowner.



Legal Member/Chair

Date 31 January 2025