



Hearing Notes of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 17 (1) of the Property Factors (Scotland) Act 2011

Reference number: FTS/HPC/PF/24/3189

Re: Property at 5e Union Street, Greenock, PA15 8JH ("the Property")

The Parties:

Mr Robert Gillespie, 5e Union Street, Greenock, PA15 8JH ("the Applicant")

Oak Tree Housing Association Limited, having its Registered office at 41 High Street, Greenock, PA15 1NR ("the Respondent")

Tribunal Members:

Andrew McLaughlin (Legal Member) and Elizabeth Dickson (Ordinary Member)

Background

[1] The Applicant seeks a determination that the Respondent has breached their obligations under paragraph 7.2 of *The Property Factors (Scotland) Act 2011: Code of Conduct for Property Factors* ("The Code").

Overview of Claim

[2] The Applicant's Form C1 is extremely brief and provides almost no information about the basis of the claim. The Application does allege a breach of paragraph 7.2 of the Code. However, it also states at Part 7: "*The Decision taken by the Factor is wrong*" and that the remedy sought by the Applicant is: "*For the original divisor of 4.5% to be used in all charges relating to external lighting.*" In that regard the Form C2 contains contradictions that seem removed from paragraph 7.2 of the Code which is purely about the procedural aspects of complaint handling.

[3] The Respondent has also submitted representations that include evidence of the Respondent having handled the Applicant's complaint in a manner consistent with paragraph 7.2 of the Code.

The Hearing

[4] The Application called for a Hearing by conference call at 2pm on 2 May 2025. The Applicant was not in attendance. He had submitted a form to the Tribunal in advance that gave formal notice that he did not intend on taking part or submitting any further representations. The form in question also explicitly informed the Applicant that not taking part may be prejudicial to the Applicant's case. The Tribunal therefore proceeded in the absence of the Applicant. Ms Mullen, solicitor, appeared on behalf of the Respondent.

[5] The Tribunal discussed the inconsistencies in the Form C1 and that the Respondent appeared to have demonstrated compliance with 7.2 of the Code.

[6] Having considered the Application and having heard from Ms Mullen, the Tribunal made the following findings in fact,

1. *The Application is founded upon an alleged breach of paragraph 7.2 of the Code. The Application is skeletal in the information that it has provided. However, it also does contain inconsistencies in that it appears to invite the Tribunal to resolve grievances about how the Respondent has computed charges for communal lighting.*
2. *The Respondent has demonstrated compliance with paragraph 7.2 of the Code in respect of their handling of the Applicant's complaint.*
3. *The Applicant has made the positive decision not to take part in the Hearing and has done so in the knowledge that it may be prejudicial to his interests.*

Decision

[7] Having made the above findings in fact, the Tribunal concludes that the Respondent has complied with paragraph 7.2 of the Code and refuses the Application.

APPEAL PROVISIONS

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.

Where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by the Upper Tribunal, and where the appeal is abandoned or finally determined by upholding the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.

NOTE: This document is not confidential and will be made available to other First-tier Tribunal for Scotland (Housing and Property Chamber) staff, as well as issued to tribunal members in relation to any future proceedings on unresolved issues.

Andrew McLaughlin

Legal Member

2 May 2025