



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

Decision on homeowner's application: Property Factors (Scotland) Act 2011 Section 19(1)(a)

Reference FTS/HPC/PF/25/1662

Re: Flat 5/6, 125 Bell Street, Glasgow, G4 0TE

(“the Property”)

The Parties:

Mr Adam Binnie, Flat 5/6, 125 Bell Street, Glasgow, G4 0TE

(“the Applicant”)

Ross and Liddell, 60 St Enoch Square, Glasgow, G1 4AW

(“the Respondent”)

Tribunal Members:

Iain MacRae (Legal Member)

Andrew McFarlane (Ordinary (Surveyor) Member)

Representation

Applicant: Absent

Respondent: David Doig, solicitor

DECISION

1.1 The tribunal, dismisses the proceedings under Rule 27(2)(b) as the applicant has failed to co-operate with the First-tier Tribunal to such an extent that the First-tier Tribunal cannot deal with the proceedings justly and fairly.

1.2. The decision is unanimous

Reason for Decision.

1. This is an application for an order under Rule 43 of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure 2017 (the Rules) and section 17 of the Property Factors (Scotland) Act 2011 (“the 2011 Act”). The Applicant alleged breaches of the Property Factors Code of Conduct by the Respondent.

2. The application was made on and is dated 18 April 2025. The applicant states that respondent has failed to comply with its duties under section 14(5) of the Property Factors (Scotland) Act 2011 (the 2011 Act) in that it failed to comply with Overarching Standards of Practice numbers 2, 3, 4, 6, 7, 8 and 9 of the 2021 Code of the 2021 Property Factor Code of Conduct effective from 16 August 2021 in relation to separate incidents dated 7 March 2024 and 22 January 2025.
3. The case has called for a Case Management Discussion on 11 February 2025 when we determined that a hearing would be required in order to establish the facts before we could reach a decision. The applicant indicated that he would call his brother as a witness and the respondent was to call their Associate Director Jennifer Johnston to give evidence.
4. The Hearing was set for Monday 18 May at 10am in Glasgow Tribunals Centre, York Street, Glasgow. This was intimated to parties.
5. By 10am the respondent's representative and witness were present. Neither the applicant nor his witness were present. The applicant had not contacted the Tribunal to advise he would not be attending today. A check was made to ensure he was not held up at security at the front door, which he was not. At 10.05 the clerk called the applicant's mobile phone and left a message for him to contact the Tribunal about today's hearing. By 10.15 there was still no sign of the applicant.
6. We must seek to give effect to the overriding objective when exercising any power under the Rules. The overriding objective is to deal with the proceedings justly. This includes dealing with the proceedings in a manner which is proportionate to the complexity of the issues and the resources of the parties; seeking informality and flexibility in proceedings; ensuring, so far as practicable, that the parties are on equal footing procedurally and are able to participate fully in the proceedings; and avoiding delay, so far as compatible with the proper consideration of the issues.
7. The applicant had not made an application for an adjournment or postponement of today's hearing. By failing to engage with the tribunal, or appear today the applicant has failed co-operate with the First-tier Tribunal to such an extent that the First-tier Tribunal cannot deal with the proceedings justly and fairly. If the hearing was continued to ascertain if the applicant wished to proceed there would be delay which would not be compatible with the proper consideration of the issues. The respondent was present and ready to proceed today. Continuing the case would require the respondent to expend further resources which would not be proportionate to the complexity of the issues.
8. We did consider whether we should proceed to hear the case in the absence of the applicant in terms of Rule 29, which affords us a discretion to do so. However, given we already determined that we required to hear evidence from parties it did not appear appropriate to us to seek to reach a decision in the absence of the applicant.

Review of a decision

The First-tier Tribunal may either at its own instance or at the request of a party review a decision made by it except in relation to applications listed in rule 37(3)(b) to (j)(b),

where it is necessary in the interests of justice to do so.

An application for review under section 43(2)(b) of the Tribunals Act must—

- (a) be made in writing and copied to the other parties;
- (b) be made within 14 days of the date on which the decision is made or within 14 days of the date that the written reasons (if any) were sent to the parties; and
- (c) set out why a review of the decision is necessary.

Appeal

A homeowner or property factor 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.

Iain MacRae

Legal Member

18 May 2026

Date