

Housing and Property Chamber

First-tier Tribunal for Scotland



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

**Certificate of Compliance with the Property Factor Enforcement Order
("PFEO") dated 28 August 2022**

Chamber Ref: HPC/LM/22/0360

5 Hillpark Grove, Edinburgh, EH4 7AP ("the Property")

The Parties:

Aylmer Millen, 5 Hillpark Brae, Edinburgh, EH4 7AP ("the Homeowner")

**Charles White Limited, Citypoint, 65 Haymarket Terrace, Edinburgh, EH12 5HD
("the Property Factor")**

Tribunal Members:

Josephine Bonnar (Legal Member)

John Blackwood (Ordinary Member)

Decision

The Tribunal, having determined that the PFEO dated 28 August 2022 relating to the property has been complied with, certifies that the Property Factor has complied with the PFEO.

The decision of the Tribunal is unanimous.

Reasons for decision

In the Tribunal's decision of 28 August 2022, it made a PFEO in the following terms:

- (1) The Tribunal order the Property Factor to provide the Homeowner with a response to his enquiry dated 3 January 2022 regarding the invoice issued in relation to the drainage work, within 28 days of intimation of the PFEO.

On 20 June 2022, the Tribunal issued a written decision with statement of reasons and a proposed PFEO. The Homeowner lodged representations regarding the proposed PFEO. The Property Factor notified the Tribunal that they had no objection to the terms of the PFEO. They also submitted a copy of an email which had been sent to the Homeowner on 21 July 2022. This email provided a response to three enquiries made by the Homeowner in the email of 3 January 2022 which had been

referred to in proposed PFEO. The email included a response to the enquiry regarding an invoice issued in relation to drainage work at the property.

Section 19(3) of the Property Factor (Scotland) Act 2011 states, "If the First-tier Tribunal for Scotland is satisfied, after taking account of any representations made under subsection (2)(b), that the Property Factor has failed to carry out the property factor's duties or, as the case may be, to comply with the section 14 duty. The First-tier Tribunal must make a property factor enforcement order."

Having considered the written representations lodged by the parties, the Tribunal determined that a PFEO "must" be issued in terms of Section 19(3). The Tribunal also concluded that it should be in similar terms to the proposed PFEO. However, having considered the terms of the Property Factor's email of 21 July 2022, the Tribunal is satisfied that the Property Factor has now issued a response to the enquiry dated 3 January 2022, which addresses the invoice issued for the drainage work.

In the circumstances, the Tribunal is satisfied that the property Factor has complied with the PFEO and that a certificate to that effect should be issued.

The Tribunal determines that the Property factor has complied with the PFEO

Appeals

A homeowner or property factor aggrieved by a 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.

Josephine Bonnar,
Legal Member
28 August 2022