

Housing and Property Chamber

First-tier Tribunal for Scotland



Certificate of Compliance following upon a decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) in an application under section 17(1) of the Property Factors (Scotland) Act 2011

Chamber Reference: FTS/HPC/PF/21/1833

Property address: Flat 2/2, 71 Belville Street, Greenock, PA15 4SU (“the Property”)

The Parties

Mrs Fiona Harris, PO Box 21167, Nicosia, Cyprus (“the Homeowner”)

River Clyde Home, Clyde View, 22 Pottery Street, Greenock, PA15 2UZ (“the Property Factor”)

Tribunal Members

Ms H Forbes (Legal Member)

Mr A Taylor (Ordinary Member)

Decision of the Tribunal

The Tribunal having determined that the Property Factor Enforcement Order (“PFEO”) relating to the Property dated 3rd March 2022 has been complied with, hereby certifies that the Property Factor has complied with the PFEO.

Reasons for Decision

1. Following a Hearing on 23rd November 2021, the Housing and Property Chamber issued a decision of the Tribunal dated 1st December 2021 determining that the Property Factor had failed to carry out their property factor duties in terms of section 17 of the Act. The Tribunal informed parties of a proposed PFEO in the following terms:

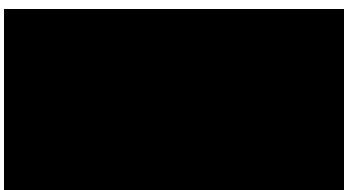
“The Factor is required to pay to the Homeowner within 14 days of intimation to them of the PFEO the sum of £1700 from their own funds to compensate the Homeowner for the distress, frustration and inconvenience caused as a result of the Factor’s failure to carry out its property factor duties.”

2. Parties were allowed the opportunity to comment upon the proposed PFEO. On 16th December 2021, the Property Factor made representations upon the proposed PFEO, applied for a review of the decision, and requested permission to appeal the decision to the Upper Tribunal.

3. The Tribunal reviewed the decision and issued an amended decision dated 21st January 2022, with no amendment to the proposed PFEO previously issued.
4. The Tribunal refused permission to appeal the decision to the Upper Tribunal on 10th February 2022.
5. On 3rd March 2022, the Tribunal issued a PFEO in the proposed terms.
6. The Property Factor sought permission to appeal the decision from the Upper Tribunal. A hearing on leave to appeal was heard on 3rd May 2022. Leave to appeal was refused by decision dated 23rd May 2022.
7. By email dated 18th July 2022, the Homeowner's representative informed the Tribunal that no payment had been received.
8. By email dated 20th July 2022, the Property Factor informed the Tribunal that payment had been made by cheque to the Homeowner, stating that there had been previous discussions regarding the correct address to which to issue the cheque.
9. By email dated 2nd August 2022, the Homeowner's representative confirmed that payment had been made, stating that it had not been made in a timely or satisfactory manner, and that the Property Factor should be reported to Scottish Ministers.
10. The Tribunal considered the representations made. It was clear that there were delays in this case, in part as a result of the referral of the case to the Upper Tribunal. The Tribunal took into account that there appeared to have been ongoing discussion between the parties in regard to making payment, and that payment was made when an address was agreed.
11. Accordingly, the Tribunal is satisfied that the PFEO has been complied with by the Property Factor.

Right of Appeal

In terms of section 46 of the Tribunals (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.



Legal Member

17th August 2022