

Housing and Property Chamber
First-tier Tribunal for Scotland



Decision of the of the First-tier Tribunal for Scotland Housing and Property Chamber
In an Application under section 17 of the Property Factors (Scotland) Act 2011

By

Douglas Forbes, 16 Oswald Court, Edinburgh EH9 2HY (“the Applicant”)

Trinity Factoring Services Limited, 209-211 Bruntsfield Place, Edinburgh EH10 4DH (“the Respondent”)

Reference No: FTS/HPC/PF/21/1275

Re: Property at 16 Oswald Court, Edinburgh (“the Property”)

Tribunal Members:

John McHugh (Chairman) and Colin Campbell (Ordinary (Housing) Member).

Decision

The Tribunal hereby determines that the Property Factor Enforcement Order has been complied with.

The decision is unanimous.

Reasons for Decision

The Tribunal issued a Property Factor Enforcement Order on 1 December 2021 (“the PFEO”) as follows:

“Within 35 days of the date of the communication to the Respondent of this property factor enforcement order, the Respondent must:

- 1 Institute procedures to ensure that communications received from homeowners are replied to within reasonable timescales and, in particular, within the timescales specified in the Respondent’s Written Statement of Services.*
- 2 Institute procedures to ensure that communications received from homeowners which constitute complaints or which might reasonably be considered to constitute complaints are dealt with by the Respondent using its formal Complaints Procedure.*
- 3 Confirm in writing to the office of the Tribunal that steps 1 and 2 above have been carried out.”*

In terms of section 23(1) of the 2011 Act, the Tribunal is to determine whether the Respondent has complied with the PFEO.

On 23 December 2021 the Tribunal received written confirmation from the Respondent that it had taken the steps required by the PFEO.

The Tribunal subsequently sought the views of the parties as to whether the PFEO had been complied with. On 2 February 2022, the Respondent confirmed that its view was that there had been compliance. On 7 February 2022, the Applicant confirmed that he had received no evidence of compliance and that he believes that the Respondent continues to act in breach of some 13 different sections of the Code and in breach of certain provisions of a criminal statute. These appear to be the same issues which featured in his original Application.

The nature of the PFEO is such that it involves the Respondent instituting certain internal procedures which are not necessarily easy to evidence. In the absence of any evidence to the contrary, the Tribunal is content to accept the response of the Respondent that it has met the requirements of the PFEO.

Accordingly, the Tribunal considers the PFEO to have been complied with.

APPEALS

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.

Signed 

Date 2 March 2022

JOHN M MCHUGH

Chairman