

Housing and Property Chamber

First-tier Tribunal for Scotland



FIRST-TIER TRIBUNAL FOR SCOTLAND (HOUSING AND PROPERTY CHAMBER)

Decision in respect of proposed Proposed Property Factor Enforcement Order following a Decision under Section 17 of the Act.

Reference number:

FTS/HPC/PF/22/1140

Re: Property at 13 Joseph Cumming Gardens, Broxburn, EH52 5AN (“the Property”)

The Parties:

Mr. David McLeod residing at the Property (“the Homeowner”)

Charles White Limited having an address at 65 Haymarket Terrace, Edinburgh, EH12 5HD (“the Property Factor”)

Tribunal Members

Karen Moore (Chairperson) and Helen Barclay (Ordinary Member)

Decision

The Tribunal determines that, the Property Factor having carried out the actions required by its proposed Property Factor Enforcement Order (“PFEO”), there is no need to make the PFEO.

Background

1. Having determined by Decision dated 17 August 2022 that the Property Factor had failed to comply with the Section 14 duty and its Property Factor’s Duties in terms of the Act, and having determined to issue a PFEO, the Tribunal gave Notice in accordance with Section 19(2)(a) of the Act that the Tribunal proposed the following PFEO. *“No later than [3 weeks from date of PFEO] the Property Factor must at its own cost and expense :1. Provide the Homeowner with a letter of apology for its actions in its dealings with him which gave rise to his application to the Tribunal and 2. Compensate the Homeowner in the sum of £500.00 for the distress, inconvenience and stress caused to him by the Property Factor’s actions.”*
2. The Tribunal invited the Parties to make representations on the proposed PFEO no later than 31 August 2022.

3. By emails dated 24 and 25 August 2022, the Property Factor evidence to the Tribunal that it had issued a letter of apology to the Homeowner and had issued a cheque for £500.00 to him.

Issue for the Tribunal

4. The issue for the Tribunal was whether or not it required to make a PFEO.

Decision of the Tribunal

5. The Tribunal having regard to the fact that the Property Factor had, in effect, complied with the terms of what would have been the PFEO, determined that a formal PFEO is not required and so did not impose a PFEO.
6. The decision is unanimous.

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.

Karen Moore

Chairperson 1 September 2022