

Housing and Property Chamber

First-tier Tribunal for Scotland



Decision 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

Alan Finlayson, 84/6 Chesser Crescent, Edinburgh EH14 1SE (“the Applicant”)

Ross & Liddell, Greenbelt Group Limited, McCafferty House, 99 Firhill Road,
Glasgow G20 7BE (“the Respondent”)

Re: 84/3-6 Chesser Crescent, Edinburgh EH14 1SE (“the Property”)

Chamber Ref: FTS/HPC/PF/19/4002

Tribunal Members:

John McHugh (Chairman) and Elaine Munroe (Ordinary (Housing) Member).

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) hereby determines that the Respondents’ application for review is granted in part.

The decision is unanimous.

Reasons for Decision

The Decision under Review

On 16 June 2022, the Tribunal issued its decision that the Respondent had failed to carry out its property factor's duties and its duties under section 14 of the 2011 Act.

Basis for Review

By letter dated 25 June 2022 the Applicant highlighted certain errors which he believed to be present in the Decision and requested their correction. Although he has not requested a formal review of the Decision, the Tribunal considers that the Applicant's letter should be treated as an application for review.

The Applicant has raised four matters:

1 That the Decision does not mention that he was the owner of an additional property – 86/4 Chesser Crescent, Edinburgh EH14 1SE.

2 That the Decision records an invitation by him to the Respondent's employee to his hotel room whereas he points out that the invitation was not in those specific terms.

3 That the Decision records the Respondent as having requested a copy of the Respondent's Written Statement of Services every year since 2012 whereas he says he only began to make regular requests for it from 2016.

4 That the Decision refers to a letter written by him "to the block insurers" when he advises the letter was, in fact, written to his fellow owners of properties within the Development.

The Tribunal has sought the views of the Respondent on the matters raised.

By email of 5 July 2022 the Respondent confirmed that it wished to make no representations.

Adopting the numbering from above:

1 It is correct that the Respondent mentioned this fact and the Tribunal is prepared to include it in the Decision.

2 It is correct that the invitation issued was not specifically to the hotel room and the wording of the Decision will be altered to reflect this. For the avoidance of doubt, the Tribunal considers that the reasonable recipient of the email would be likely to consider it be an invitation to the hotel room.

3 The Tribunal's recollection is that the Applicant acknowledged at the hearing his having made regular requests for the Written Statement since 2012. Accordingly, no alteration to the Decision will be made.

4 The sentence in question read: "*He held Ms Glendenning responsible for communicating the content of a letter he had written to the block insurers which had resulted in refusal of a claim and adverse response by the insurers as to his conduct*" There appears to be a misunderstanding: "to the block insurers" is intended to relate to the communication by Ms Glendinning ie the suggestion is that she had communicated the content of the letter to the block insurers, not that the letter was addressed by the Applicant to the insurers. Accordingly, no change to the Decision is required.

Decision

The application for review is granted in part and an amended version of the Decision will be issued.

This Decision is not subject to appeal.

Signed

Date 14 July 2022

JOHN M MCHUGH

Chairing Member