

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Compliance Decision 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 Ref: FTS/HPC/19/3399

**82/2 Harvesters Way, Wester Hailes, Edinburgh EH14 3JJ
("the Property")**

The Parties:-

**Miss Christian Marie Wood, 82/2 Harvesters Way, Wester Hailes, Edinburgh EH14 3JJ
("the Homeowner")**

**Residential Management Group Limited, RMG House, Essex Road, Hoddesdon, Hertfordshire EN11 0DR
("the Factor")**

Tribunal Members:

**Graham Harding (Legal Member)
Carol Jones (Ordinary Member)**

Decision

The Tribunal has determined that the Factor has complied in full with the terms of the Property Factor Enforcement Order ("PFEO") issued on 25 May 2021 therefore no further action is required.

The decision is unanimous.

Statement of Reasons

By decision issued on 26 March 2021, the Tribunal determined that the Factor had failed to comply with its duties under section 14(5) of the 2011 Act in that it did not comply with sections 2.5, 6.1 and 7.2 of the Code.

1. The Tribunal issued a Notice of Proposed PFEO together with the decision on 26 March 2021 and invited representations within 14 days of the Notice being received by the parties.

2. By letter dated 7 April 2021 the Homeowner acknowledged receipt of the proposed PFEO and commented on steps she intended to take at the proposed meeting of owners. She also wished the co-owners to be made aware of the possible subsidence and water ingress at the property. These were matters outwith the jurisdiction of the Tribunal.
3. By email dated 29 April 2021 the Homeowner advised the Tribunal that the Factor had not complied with any of the requirements of the proposed PFEO other than to attempt to arrange a Zoom meeting for 16 May 2021. The Homeowner also advised that the Factor had submitted an invoice for management fees for the period January to March 2021 which she understood she was not to be charged.
4. By email dated 4 May 2021 the Factor advised the Tribunal that arrangements were being made to comply with the actions set out in the proposed PFEO and that payment of £500.00 would shortly be made to the Homeowner. The email went on to say that once payment had been made a letter of apology would be sent to the Homeowner.
5. By email dated 15 May 2021 the Homeowner advised the Tribunal that she had not received either payment or an apology.
6. Having considered the representations made on behalf of both parties the Tribunal determined that it was appropriate to issue a PFEO in the same terms as the proposed PFEO. A PFEO was issued to the parties on 25 May 2021.
7. The Homeowner submitted written representations to the Tribunal by email dated 29 May 2021.
8. The Factor by email dated 28 June 2021 submitted a compliance response letter to the Tribunal advising that it believed it had complied with the terms of the PFEO.
9. Following a further query from the Tribunal the Factor by email dated 4 August 2021 again confirmed that it had complied with the terms of the PFEO and requested that a Certificate of Compliance be issued.
10. The Homeowner did not submit any further written representations.
11. The Tribunal having considered matters and being satisfied that the PFEO has been complied with by the Factor has determined that no further action is required.

Right of Appeal

12. 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 within 30 days of the date the decision was sent to them.

Graham Harding
Legal Member and Chairperson

4 November 2021