



Decision of the First-tier Tribunal for Scotland Housing and Property Chamber issued under Section 19(1) of the Property Factors (Scotland) Act 2011 (“the Act”) and The First-Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, in an application made to the Tribunal under Section 17 of the Act

Chamber reference: FTS/HPC/PF/21/1698

The Parties:

Mr William McGibbon, Flat 10, 12 Ravelston Terrace, Edinburgh EH4 3TP (“the homeowner”)

and

Hacking and Paterson Management Services, a company incorporated in Scotland under the Companies Acts (SCO73599) and having their Registered Office at 1 Newton Street, Glasgow G3 7PL (“the property factors”)

The Property: Flat 10, 12 Ravelston Terrace, Edinburgh EH4 3TP

Tribunal Members – George Clark (Legal Member/Chairman) and Andrew Murray (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") decided that, as the property factors have paid to the Homeowner the compensation of £500 in respect of their failure to comply with their duties in terms of Sections 2.5 and 3 of the Property Factors Code of Conduct made under Section 14 of the Property Factors (Scotland) Act 2011, that the Tribunal proposed to order them to pay, it was no longer necessary for the Tribunal to make a Property Factor Enforcement Order.

Reasons for Decision

On 17 March 2022, the Tribunal determined that the property factors had failed to comply with their duties in terms of Section 2.5 and 3 of the Property Factors Code of Conduct (“the Code of Conduct”) made under Section 14 of the Property Factors

(Scotland) Act 2011. The Tribunal's Decision was intimated to the Parties and included a Notice made under Section 19(1)(a) of the Act of a Property Factor Enforcement Order that the Tribunal proposed to make, requiring the property factors to pay £500 compensation to the homeowner.

On 24 March 2022, the property factors advised the Tribunal that they had made the payment of £500 and on 6 April 2022, the homeowner confirmed that he had received a cheque and that it had now cleared his bank.

As the action which would have been required of the property factors had now been taken, the Tribunal decided that the proposed Property Factor Enforcement Order was no longer necessary.

The Tribunal's Decision was unanimous.

Right of Appeal

In terms of Section 46 of the Tribunal (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/Chair

8 June 2022
Date