

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

Aylmer Millen, 5 Hillpark Grove, Edinburgh EH4 7AP (“the Applicant”)

**Charles White Limited, Citypoint, 65 Haymarket Terrace, Edinburgh EH12 5HD
 (“the Respondent”)**

Reference No: FTS/HPC/LM/20/1387

**Re: Property at Hillpark Grove, Edinburgh
 (“the Property”)**

Tribunal Members:

John McHugh (Chairman) and David Godfrey (Ordinary (Surveyor) 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 the following Property Factor Enforcement Order (“PFEO”) on 2 December 2020:

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

- 1 Pay to the Applicant the sum of £500, such payment to be by way of a cheque made payable to the Applicant or bank transfer as opposed to a credit to his factoring account.*
- 2 Provide to the Applicant copies of: the invoices of Lanes and any other contractors involved in the drainage works; the CCTV survey report of the drains; reports of the condition of the drain; and the Respondent's*

correspondence with third parties in respect of the workmanship, fitness for purpose and maintenance of the drain.

- 3 *Provide a written apology to the Applicant in respect of the failures identified in our Decision.*
- 4 *Confirm in writing to the office of the Tribunal that steps 1 to 3 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.

The Tribunal gave consideration to the extent to which the PFEO had been complied with.

Parties agree that paragraphs 1 and 3 have been complied with. The Applicant has expressed concern regarding the information supplied to him by the Respondent in purported satisfaction of the obligation contained in paragraph 2. He regards some of this as irrelevant since it relates to 2018, rather than 2019 drainage works. He is disappointed that some of the content is low level communication and hand written observations rather than a detailed contractor's report of the type which he had expected would exist. While the Applicant is disappointed with the documents provided, the Respondent has reassured the Tribunal and the Applicant that a full disclosure of all relevant documents has been made and, in the absence of any evidence to the contrary, the Tribunal is prepared to accept the Respondent's representation.

The Tribunal hereby finds that the PFEO has 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 4 February 2021

JOHN M MCHUGH

Chairperson