

Housing and Property Chamber First-tier Tribunal for Scotland



Statement of Decision under Rule 39 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (contained in Schedule Part 1 of the Chamber Procedure Regulations 2017 (SSI No 328) as amended) (“the Procedure Rules”) in relation to a request for permission to review a Decision under section 43(2)(b) of the Tribunals (Scotland) Act 2014

In connection with

Chamber File Reference number: FTS/HPC/PF/19/3402

Re 69 Lenzie Way, Springburn, Glasgow, G21 3TB (“the Property”)

The Parties:

Mr Mohit Gajri (“Applicant”)

Walker Sandford Property Management (“Respondent”)

Tribunal member: Martin J. McAllister (chairing legal member);

DECISION

The Tribunal, having considered the application by the Respondent to have the Decision dated 12th November reviewed, determines to take no action.

BACKGROUND

- i. On 12TH November 2019, the Tribunal made a determination under Rule 8 (1) (a) and (c) of the Procedure Rules to reject the Application of the Applicant and produced a statement of decision (“the decision”).
- ii. On 18th November the Applicant emailed the Tribunal requesting that the decision be reviewed in terms of Section 43 of the Tribunals (Scotland) Act 2014. The Applicant cited various reasons that the Decision should be set aside. The request of the Applicant is timeous since it was made within fourteen days of the decision being issued.

REASONS FOR REQUEST FOR REVIEW

- I. The Applicant stated that the Respondents are property factors in terms of the Property Factors (Scotland) Act 2011.
- II. The Applicant states that his complaint concerned the argumentative conversations he had on 13th and 17th September 2019.
- III. The Applicant refers to Section 3.3 of the Property Factors (Scotland) Act 2011 Code of Conduct for Property Factors (the "Code") and the fact that the Respondent had placed a Notice of Potential Liability on the Property.
- IV. The Applicant states that the Respondent has not dealt with complaints in terms of the Code.
- V. The Applicant objects to the decision referring to his application being referred to in the decision as frivolous or vexatious.
- VI. The Applicant refers to the distress caused to him by actions of the Property Factor as well as financial costs which he had incurred.

DISPOSAL OF APPLICATION FOR REVIEW.

It is clear that the Applicant considers that he has been prejudiced as a result of the action of the Respondent in putting a Notice of Potential Liability on the Property. In rejecting the Applicant's application the Tribunal had to have regard to the provisions of the Property Factors (Scotland) Act 2011 ("the 2011 Act") and the fact that the Respondent had not managed the development in which the Property is part of since 31st July 2007.

It is not arguable that the Respondent is in business as property factors/ property managers.

In terms of the 2011 Act a property factor is defined in Section 2 (1) (a) as

" a person who, in the course of that person's business, manages the common parts of land owned by two or more other persons and used to any extent for residential purpose" and

in terms of Section 10 (5) (a) a homeowner is defined as "an owner of land used to any extent for residential purposes the common parts of which are managed by a property factor."

It is assumed that the Applicant is an owner of land used to any extent for residential purposes. What cannot be disputed is that the Respondent has not managed the common parts referred to in the 2011 Act because it ceased to do so on 31st July 2007.

The Respondent ceased to manage the Property a number of years prior to the inception of the 2011 Act and it is considered that it is appropriate to reject the application in terms of Rules 8 (1) (a) and (c) of the Procedure Rules.

I see no argument advanced by the Applicant which would lead me to take any action in relation to the decision.

Martin J. McAllister
Chairing Legal Member of the Tribunal
4th December 2019