

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

We are of the view that we should make a property factor enforcement order amended to take into consideration the representations of the parties.

Our decision is unanimous.

REASONS FOR DECISION

In our decision of 6 November 2020 we indicated that we proposed to make a property factor enforcement order (“PFEO”).

We indicated that, prior to making a property factor enforcement order, we would provide the parties with a period of fourteen days within which to make representations under section 19(2)(b) of the Act.

The Applicant has made representations dated 20 November 2020. He points out the repeated failings of the Respondent which he considers merit in addition to the payment specified in the Proposed PFEO both an apology and a requirement that the Respondent provides improved complaints handling training to its staff. The suggestion of an apology appears reasonable in the circumstances of this case.

We are not inclined to order that the Respondent undertakes staff training as we consider that it would be difficult for the Tribunal to assess the effectiveness of such training. However, we are aware that the Applicant has identified a weakness in the Respondent's complaints handling and the Respondent would be well advised to consider its training of staff.

We now make a PFEO in terms which we consider suitable to address the expressed concerns.

The Respondent has made no particular representations but has sought clarification on the meaning of the term "third parties". The Tribunal intends this to include any correspondence with persons such as professional surveyors; advisers; contractors or the like who have been consulted in relation to the condition of the drain.

Property Factor Enforcement Order

We hereby make the following Property Factor Enforcement Order ("PFEO"):

"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."*

Failure to comply with a property factor enforcement order may have serious consequences and may constitute an offence.

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 2 December 2020

JOHN M MCHUGH

Chairperson

