

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 (1) of the Property Factors (Scotland) Act 2011

Chamber Ref: FTS/HPC/LM/20/2600

Re: Grounds surrounding Bethany Gardens and Bethany House, Aberdeen, AB11 6XW (“the Property”)

Parties:

Miss Gayle Smith, residing at 4 Bethany Gardens Aberdeen, AB11 6XW, (“the Homeowner & Applicant”)

Aberdeen Property Leasing, Rosemount House, 138 Rosemount Place, Aberdeen AB25 2YU (“the Property Factor & Respondent”)

Tribunal Members:

**Jim Bauld (Chairing & Legal Member)
Ahsan Khan (Ordinary Member & Surveyor)**

Introduction & Background

1. By application dated 16 December 2020 the Homeowner made an application to the Tribunal alleging breaches of certain sections of the Code of Conduct for Property Factors issued in terms of the Property Factors (Scotland) Act 2011.
2. The application was accepted and was referred to a Tribunal for determination and a hearing was set to take place on 26 March 2021 via telephone case conference. Appropriate intimation of that hearing was sent to both the Homeowner and the Property Factor.

Case Management Discussion

3. The case management discussion took place on 26 March 2021 by telephone case conference. The applicant was in attendance and the property factors were represented by their Director, Marjorie Davison and her colleague Amanda Craig.
4. The tribunal explained the purpose of the case management discussion and set out the details of the overriding objective of the tribunal as contained in the First-tier Tribunal for

Scotland Housing and Property Chamber (Procedure) Regulations 2017. The tribunal also explained the manner in which the telephone conference call would be conducted

5. The applicant set out her concerns with regard to the matters contained in the application. She indicated that she had been seeking certain information from the property factors regarding the breakdown of costs of gardening works arranged by the property factor, the scope of works undertaken and whether the property factor ever tested the market to see whether the services could be obtained at a more competitive rate.
6. The property factor's representative responded by indicating that they were aware of the concerns of the applicant and that they intended this year to test the market and to obtain alternate quotes for the work. They indicated they would be happy to write to the applicant addressing her concerns and setting out what they intended to do.
7. In response the applicant indicated that she was content that her concerns were being recognised by the property factor and that she would be happy if the property factor wrote to her addressing those concerns and confirming certain future actions.
8. It was agreed by the parties that the property factor would write to the applicant within seven days addressing the concerns raised and confirming the actions which would be taken. The property factor confirmed that a copy of that correspondence would be sent to the tribunal.
9. The applicant indicated that upon receipt of the correspondence she would confirm to the property factor and to the tribunal that matters were resolved and that the application could be withdrawn without any order being made.
10. The case management discussion was concluded on that basis and parties agreed to correspond with each other and then inform the tribunal of the outcome of that correspondence.

Matters arising after the case management discussion

11. By email dated 1 April 2021, the property factor sent to the tribunal a copy of their email to the applicant which addressed the various matters raised in the application and at the case management discussion

12. By email dated 6 April 2021, the applicant confirmed to the property factor that she appreciated the email and was satisfied with the clarification. She confirmed she would also send an the email to the tribunal to confirm that the matter has been resolved. On the same date the applicant sent an email to the tribunal enclosing a copy of her email to the property factors confirming that matters were now resolved.

13. The tribunal has considered the terms of the correspondence between the parties and notes that the parties have reached agreement to resolve this application.

Decision

14. On that basis of the resolution agreed by the parties, the tribunal allows the application to be withdrawn and dismisses the application. The tribunal will make no order nor any findings regarding any alleged breaches of the property factors Code of Conduct for Property Factors

Rights of Appeal

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.

Where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by the Upper Tribunal, and where the appeal is abandoned or finally determined by upholding the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.

21 May 2021

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James Bauld, Chairperson

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Date