



Statement of Decision in respect of an application under Section 17 of the Property Factors (Scotland) Act 2011 (“the Act”) and issued under the First-tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (“the Rules”)

Chamber Ref: FTS/HPC/PF/24/0298

Re: Property at Flat 1/4, 17 Springfield Gardens, Glasgow G31 4HG (“the Property”)

Parties:

Mr Petr Berka, residing at Flat 1/4, 17 Springfield Gardens, Glasgow G31 4HG (“the Homeowner”)

Newton Property Management Limited, having a place of business at 87, Port Dundas Road, Glasgow G4 0HP (“the Property Factor”)

Tribunal Members:

**Mark Thorley (Legal)
Mary Lyden (Ordinary)**

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Property Factor –

- i. Has not failed to comply with Section 14 duty in terms of the Act in respect of compliance with the Property Factor Code of Conduct 2021 (“the 2021 Code”);

The Homeowner applied by application dated 18 January 2024 to the Tribunal for a determination that the Property Factor had failed to comply with the 2021 Code.

The application set out that there had been a failure to comply with the overarching standard of practice in terms of OSP3 namely that “You must provide information in a clear and accessible way”.

The Homeowner made reference to requesting information regarding the car park lights and for electricity invoices and ground maintenance dates. The application was received by the Tribunal and further information sought on 12 February 2024.

On 16 February 2024 the application was accepted for determination by the First-tier Tribunal.

The Property Factor received intimation of the application and provided a written response.

In particular the Property Factor made reference to a previous decision from the Tribunal under references FTS/HPC/PF/22/1769 and 22/2026. The Property Factor indicated that the matters which had been raised by the Homeowner had already been dealt with at a previous hearing.

The Homeowner indicated that he was not attending the case management hearing.

At the case management hearing Ms Flanagan for the Property Factor attended.

She indicated that information was now being provided to homeowners via an online portal.

She indicated that the complaint by the Homeowner was the same complaint that had been made previously and had been dealt with.

She indicated that the Homeowner was in continuous correspondence with the Property Factor and they provided him with multiple emails in great detail.

In particular however the complaint raised by the Homeowner regarding the issues of common lighting metering and charging had specifically been dealt with in the earlier decision. Having regard to the issue of identification of dates for ground maintenance the Property Factor could not precisely say when this would happen because it was clearly very much weather dependent. Ground maintenance could not be undertaken if conditions were poor. No other homeowners received this information.

Findings in Fact

1. The Homeowner had previously raised the issue of information regarding car parking lights.
2. A decision from the Tribunal was made regarding this on 23 November 2022.
3. It is not possible to be accurate in the provision of dates for ground maintenance.

Issues for the Tribunal

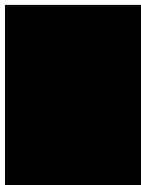
1. The Tribunal required to determine whether the Property Factor had breached that part of the 2021 Code as complained of in the application.

Reasons for Decision

1. The issue surrounding car parking lights had already been dealt with by an earlier decision as is referred to. Information had already been provided about the car parking lights. It was the same information being requested and information had already been given.
2. In relation to the issue of dates for ground maintenance these could not be supplied because there was no guarantee as to what date anyone could attend for ground maintenance because of in particular issues surrounding weather.
3. Having made a finding of no failures to comply the Tribunal was not required to consider an order. The decision is 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

07 July 2024

Date