



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Rule 26 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.

Case reference FTS/HPC/PF/25/0998

Parties

Mr Giancarlo Leuter (Applicant)

Mr James Sharkey (Applicant's Representative)

Flat 3/1, 18 Ingleby Drive, Glasgow, G31 2PT (Property)

Tribunal Member: Jacqui Taylor (Legal Member)

1. Background.

1.1 The Applicant made an application under section 17(1) of the Property Factors (Scotland) Act 2011 dated 28th October 2024.

1.2 The Tribunal sent the Applicant an email dated 3rd April 2025 which requested further information to enable the application to be processed and asked that the requested information be provided by 1st May 2025. The email was in the following terms:

'Your application to the Chamber under Section 17(1) of the Property Factors (Scotland) Act 2011 has been referred to the Chamber President for consideration. She has indicated that further information is required before a decision can be made on the validity of your application or whether it should be referred to a tribunal. 1. Section 17 (3) of the Property Factors (Scotland) Act 2011 states that no application can be made to the Tribunal unless the homeowner has notified the property factor in writing as to why it is considered that the property factor has failed to carry out the property factor's

duties or comply with the Code and the property factor has refused to resolve, or unreasonably delayed in attempting to resolve, the homeowner's concern. You will require to send a letter to the property factor which details the paragraphs of the Code which you consider have not been complied with and why you think that is the case. The Tribunal requires to have evidence of delivery of the letter of notification such as an acknowledgement, copy of sent email or proof that the letter has been delivered such as by recorded delivery. A template letter is attached which you may find useful.

2. You have completed section 7B of the application form. 'Property factor's duties' is generally taken to apply to any duties other than those under the code of conduct. The source of a property factor's duties could be, for example, the factor's written statement of services, the title deeds for the property, any other relevant contract, or the general law of agency. It may be that, on reflection, you consider that an application in respect of alleged failure to comply with the Code is sufficient. If you do want this to be part of your application, you must also notify the property factor about this/these complaint(s) before we can take the application forward. You will need to write to the property factor stating clearly why you believe it has failed to comply with its duties, which duties you believe have been breached, and the source of these duties. A template notification letter in relation to property factor's duties is attached and you may find it useful. This is the letter which states 'I am writing to inform you that I believe that you have failed to carry out your property factor duties as set out in section 17 (5) of the Property Factors (Scotland) Act 2011'. If you are sending a letter of notification, the Tribunal requires to have a copy and evidence that the property factor has received it.

3. Please note that a property factor requires to be given an opportunity to respond to any Section 17 notification sent by a homeowner. Please provide copies of any responses received.

4. In terms of Rule 43 (2) (d) of the Tribunal Rules, an application has to be accompanied with the written statement of services issued to you by the property factor. You have submitted a factoring agreement dated 2014. It is possible that the property factor has issued a more recent statement of services and, if so, this should be submitted. Please reply to this office with the necessary information by 1 May 2025, when your application will be further considered by the Chamber President. If we do not hear from you within this time, the Chamber President 2 may assume that the dispute has been resolved and consequently may reject the application in terms of Section 18(2) of the Act. It is, therefore, important that you respond within the timescale given.'

1.3 The Applicant's Representative sent the Tribunal an email dated 1st May 2025 advising that the Applicant was not wishing to pursue the application. He sent a further email to the Tribunal dated 16th June 2025 withdrawing his email dated 1st May 2025 and clarifying that the Applicant was continuing with the application.

1.4 The Tribunal has sent reminder emails to the Applicant's Representative dated 4th July 2025, 19th August 2025 and 3rd September 2025 requesting the information specified in the email from the Tribunal dated 3rd April 2025. The emails stated that if the information was not provided it is likely that the application will be rejected.

1.5 The required information has not been provided.

2. Decision.

As the Applicant has not provided the Tribunal with the information requested in the email from the Tribunal dated 3rd April 2025 the Tribunal have good reason to believe that it would not be appropriate to accept the application and reject the application in terms of rule 8 (1)(c) of the Tribunal Rules.

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

Jacqui Taylor

.....Legal Member Date: 17th October 2025