



Statement of Decision with reasons by the First-tier Tribunal for Scotland (Housing and Property Chamber) in terms of Rule 27 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”) in respect of an Application in terms of Section 17 of the Property Factors (Scotland) Act 2011 (“the PF Act”) and Direction in terms of Rule 40 of the Rules.

Reference number: FTS/HPC/PF/23/0926

Property: Rowardennan Lodges, Rowardennan, Stirlingshire, G63 0AR (“the Property”)

The Parties:

Mr. Adrian McNally residing at 49, Academy Place, Bathgate, West Lothian, EH48 1AS (“the Homeowner”)

Blythswood Property Management, Munro House, Quarrywood Court, Livingston, EH54 6AX (“the Property Factor”)

Tribunal Members:

Karen Moore (Chairperson) Carol Jones (Ordinary Member)

Decision

The Tribunal dismissed the Application on the grounds that the Tribunal does not have jurisdiction in terms of the PF Act.

Background

1. By application received between 22 March 2023 and 20 April 2023 (“the Application”) the Homeowner applied to the First-tier Tribunal for Scotland (Housing and Property Chamber) for a determination that the Property Factor had failed to comply with the Code of Conduct for Property Factors 2012 (“the 2012 Code”). The Application was accepted by the tribunal chamber and a Case Management Discussion (CMD) took place on 26 July 2023 by

telephone conference call, the outcome of which was that a Hearing was fixed.

2. A Hearing fixed for 15 March 2024 was postponed to 5 July 2024 and, thereafter, to 24 January 2025. That Hearing was adjourned to 9 October 2025.

Hearing

3. The Hearing took place on 9 October 2025 at 10.00 at the Glasgow Tribunal Centre. Mr. McNally, the Homeowner, took part and was not represented. The Property Factor was represented by Ms. Hales and by Mr. Johnstone, a lay representative for Ms. Hales.
4. During the Hearing, Mr. Johnstone, on behalf of the Property Factor, produced a copy title sheet for the Property. The title sheet showed the owners of the Property to be persons other than the Homeowner and showed that their ownership pre-dated the Application by six years.
5. The Homeowner confirmed that title and ownership of the Property had been transferred to his daughters at that time. He accepted that he no longer had ownership.
6. The Tribunal explained that the effect of the information provided at that Hearing on this Application is that the Homeowner has no locus or standing to raise these proceedings.

Decision of the Tribunal and reasons for the decision

7. Having determined that the Homeowner is not a homeowner as defined by Section 10(5) of the PF Act which states “*“homeowner” means (a)an owner of land used to any extent for residential purposes the common parts of which are managed by a property factor, or (b)an owner of residential property adjoining or neighbouring land which is (i)managed or maintained by a property factor, and (ii)available for use by the owner.*”, it follows that the Homeowner is not entitled to raise the proceedings in terms of Section 17(1)

of the PF Act which states “A homeowner may apply to the First-tier Tribunal for (a) determination”

8. Accordingly, the Tribunal has no jurisdiction to proceed further with the Application and dismisses the Application in terms of Rule 27.
9. This Decision is unanimous.

Right of Appeal

10. 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.

Motion in terms of Rule 40 of the Rules.

11. Mr. Johnstone on behalf of the Property Factor moved that expenses be awarded to the Property Factor in respect of the Homeowner’s conduct in raising and pursuing the Application in the knowledge that he was not a homeowner and so had had no title or interest to do so.
12. The Tribunal advised that it would allow the Parties an opportunity to make representations on that matter. The Parties agreed that the representations could be dealt with by written submissions in terms of Rule 18 of the Rules.
13. Therefore, the Tribunal **Directs** the Property Factor to submit written representations in respect of Rule 40 to both the Tribunal and the Homeowner no later than close of business on **15 November 2025** and Directs the Homeowner to respond to those written representations to both the Tribunal and the Property Factor no later than close of business on **15 December 2025**.

14. For the benefit of the Parties, the wording of Rule 40 is:

“40 (1) The First-tier Tribunal may award expenses as taxed by the Auditor of the Court of Session against a party but only where that party through unreasonable

behaviour in the conduct of a case has put the other party to unnecessary or unreasonable expense. (2) Where expenses are awarded under paragraph (1) the amount of the expenses awarded under that paragraph must be the amount of expenses required to cover any unnecessary or unreasonable expense incurred by the party in whose favour the order for expenses is made.”

Legal Member/Chair

9 October 2025
Date

