

# Housing and Property Chamber

## First-tier Tribunal for Scotland

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**First-tier Tribunal for Scotland (Housing and Property Chamber)**

**Decision on Homeowner's application: Property Factors (Scotland) Act 2011  
Section 19(1)(a)**

**Chamber Ref: FTS/HPC/PF/20/0402**

**Flat 2/2 235 Berkeley Street, Glasgow G3 7HH  
("the Property")**

**The Parties:-**

**Mr Tahir Mahmood, residing at Flat 2/2 235 Berkeley Street, Glasgow G3 7HH  
("the Homeowner")**

**Glasgow West Enterprises Limited, 5 Royal Crescent, Glasgow G3 7SL  
(represented by their agent T C Young, Solicitors, 7 West George Street,  
Glasgow G2 1BA)  
("the Factor")**

**Tribunal Members:**

**Graham Harding (Legal Member)  
Kingsley Bruce (Ordinary Member)**

### **DECISION**

The Tribunal decides not to issue a Property Factor Enforcement Order.

The decision is unanimous.

### **Background**

1. By its decision dated 12 October 2020 the Tribunal found that the Factor was in breach of Section 6.1 of the Code of Conduct for Property Factors and issued a Proposed Property Factor Enforcement Order on the same date in the following terms:

Within a period of 30 days the Factor must:-

- (1) Offer a written apology to the Homeowner for its breach of Section 6.1 of the Code;
- (2) Make a payment from its own funds to the Homeowner in the sum of £450.00.

2. The Homeowner sought permission to appeal the Tribunal's decision to the Upper Tribunal but this was refused on 7 December 2020. The Homeowner subsequently applied for permission to appeal directly to the Upper Tribunal. This application was first refused on 17 January 2021 and following a further hearing which had been delayed due to the Covid pandemic was finally refused by the Upper Tribunal on 19 August 2021.
3. The Tribunal sought to ascertain from the parties if the terms of the proposed PFEU had been met by email dated 20 October 2021.

### **Subsequent Representations**

4. The Factor's representative responded by email dated 20 October 2021 advising that by email dated 22 October 2020 they had confirmed to the Tribunal that the PFEU was no longer necessary as the Factor had complied with its terms.
5. By email dated 21 October 2021 the Homeowner confirmed that the Factor had made payment of the sum awarded but that he was not satisfied with the terms of the apology provided which consisted of a single sentence as follows: ' I apologise to you for the shortcomings in our service, and I hope that you will be re-assured of our endeavours in this regard'. The Homeowner went on to list a number of issues which he thought the Factor ought to have addressed in its apology. He submitted that the Factor was in breach of the PFEU. He went on to restate complaints about the Factor that had been addressed by the Tribunal in its original decision.

### **Reasons for Decision**

6. The Tribunal has carefully considered the parties submissions and is satisfied that the Factor has complied with both parts of the proposed PFEU. The Tribunal did not set out in detail how the apology to the Homeowner should be worded and it is satisfied that the words used by the Factor meets the requirements of the proposed PFEU. It is not disputed that the Homeowner has received payment of the sum awarded to him and therefore as the terms of both parts of the Proposed PFEU have been met the Tribunal takes the view that issuing a final PFEU would appear to be unnecessary and accordingly the Tribunal has elected in terms of section 19 (1) (b) of the 2011 Act not to make a PFEU in this case.

## **Appeals**

**A homeowner or property factor 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.**

Graham Harding

Legal Member and Chair

2 November 2021

Date