

Housing and Property Chamber

First-tier Tribunal for Scotland



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

**DECISION: Failure to comply (No PFEO) Property Factors (Scotland)
Act 2011 Section 19**

Chamber Ref: FTS/HPC/PF/19/0834

**47 Jubilee Park, Peebles EH45 9BF
("the Property")**

The Parties:-

**Mr Jerry Rimmer, 47 Jubilee Park, Peebles EH45 9BF
("the Homeowner")**

**Charles White Limited, Citypoint, 65 Haymarket Terrace, Edinburgh
EH12 5HD
("the Factor")**

Tribunal Members:

Graham Harding (Legal Member)

Elizabeth Dickson (Ordinary Member)

This document should be read in conjunction with the Tribunal's decision of 19 February 2020.

Decision

The Tribunal is of the view that it does not require to make a Property Factor Enforcement Order ("PFEO") in the terms originally proposed by it in its decision of 19 February 2020 as the Factor has complied in full with the terms of the proposed Order.

The Tribunal's decision is unanimous.

Statement of Reasons

1. By decision issued on 17 September 2019, the Tribunal determined that the Factor had failed to carry out its property factor's duties and was in breach of its duties under Sections 2.1, 2.5 and 6.9 of the Code of Conduct for Property Factors.

2. The Tribunal issued a Notice of Proposed PFEO together with the decision on 17 September 2019 and invited representations within 14 days of the Notice being received by the parties.
3. By letter dated 26 September 2019 the Homeowner requested the Tribunal review its said decision.
4. By emails dated 1 and 4 October 2019 the Factor responded to the notification of the decision and the Homeowner's review request.
5. The Tribunal determined that the Homeowner's request for a review was both timeous and not wholly without merit and a review hearing was assigned to take place on 10 December 2019.
6. Following a review hearing at Edinburgh on 10 December 2019 and correspondence with the Homeowner the Tribunal issued its revised Decision on 19 February 2020.
7. By email dated 12 March 2020 the Factor advised the Tribunal that it had complied with the proposed PFEO. A copy of said email was sent to the Homeowner. He did not respond. The Homeowner had confirmed in correspondence dated 13 February 2020 that subject to the Tribunal correcting certain omissions in its decision and receiving a full written apology from the Factor together with payment of the sum awarded he was prepared to consider the matter concluded. The Tribunal has heard nothing further from the Homeowner.
8. The Tribunal has considered matters and taken account of the correspondence provided by the parties. The Tribunal unanimously agrees that the Factor has complied with the proposed order. The Tribunal certifies that the Factor has complied with the proposed order and therefore does not require to issue a PFEO.

Right of Appeal

9. 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 within 30 days of the date the decision was sent to them.

Legal Member and Chairperson

23 June 2020