

Housing and Property Chamber

First-tier Tribunal for Scotland



FIRST-TIER TRIBUNAL FOR SCOTLAND (HOUSING AND PROPERTY CHAMBER)

STATEMENT OF DECISION under Section 23 of the Property Factors (Scotland) Act 2011 (“the Act”) in respect of an Order made under Section 19 of the Act

Chamber Ref: FTS/HPC/PF/20/2100

Re: 32 Tudsbery Avenue and 2 Dingwall Place, Edinburgh, EH16 4GX (“The Property”)

The Parties:-

Miss Valerija Voitovic residing at 32 Tudsbery Avenue, Edinburgh, EH16 4GX (“the Homeowner”) and

Residential Management Group Scotland Limited, having a place of business at RMG House, Essex Road, Hoddesdon, EN11 0DR (“the Factor”).

Tribunal Members

Karen Moore (Legal Member) and Carol Jones (Ordinary Member)

Decision

The Tribunal determined that the Factor has not failed to comply with the Property Factor Enforcement Order (“PFEO”) made by it on 25 March 2021 and subsequently varied and so issued a Certificate of Compliance.

Background

1. By application received between 5 October 2020 and 15 November 2020 (“the Application”) the Homeowner applied to the First-tier Tribunal for Scotland (Housing and Property Chamber) for a determination that the Factor had failed to comply with Sections 6.1 and 6.9 of the Code. Following a Hearing which took place on 15 January 2021, the Tribunal found that the Factor had failed to comply with Section 14 of the Act in respect of compliance with Sections 6.1 and 6.9 of the Property Factor Code of Conduct and made the following PFEO:-

“No later than 20 April 2021 the Factor must:

1. *Make payment to the Homeowner of the sum of £250 in recognition of the inconvenience that the Factor’s breaches of the Code have caused to the Homeowner;*
2. *At its own expense, refund to the owners of 2 Dingwall Place the sums paid by them in respect of the Eden Group invoice for £1,524.84;*

3. *Provide the Homeowner and the other owners of the Property with copies of all correspondence and communications in its possession, including guarantees and communications with guarantors and guarantee holders, in respect of the roof and the repairs instructed, carried out and contemplated together with a timescale for completion of all outstanding identified works;*
4. *Provide the Homeowner and the other owners of the Property with copies of all correspondence and communications in its possession in respect of the poplar tree which appears to be causing damage at the Property, including repairs and works instructed, carried out and contemplated together with details of the agreement with Places for People and a timescale for completion of all the works;*
and

Provide to the Tribunal documentary evidence of compliance with the above Orders.”

Compliance Responses from Factor.

2. By email dated 21 April 2021 and received by the Tribunal on 11 June 2021, the Factor wrote to the Tribunal to advise that it had complied with the PFEO and attached documents in support of its position. The Tribunal gave careful consideration to the Factor's response in light of the terms of the PFEO. However, the Tribunal was not satisfied that the Factor had adequately addressed the requirements of the PFEO and so the Tribunal allowed further time to 31 July 2021 for the Factor to comply.
5. By email dated and received on 30 July 2021, the Factor provided detailed evidence to show that it had provided the Homeowner and the other owners with all of the correspondence required by the PFEO. Whilst the Factor had not provided evidence that it has repaid the owners of 2 Dingwall Place the sums paid by them in respect of the Eden Group invoice for £1,524.84, the Tribunal is satisfied that the sums have been credited to the factoring accounts for those owners and so is prepared to take the view that the PFEO is satisfied in that regard.

Compliance Responses from the Homeowner.

6. No response was received from the Homeowner.

Decision of the Tribunal with Reasons

7. The Tribunal being satisfied that the PFEO is complied with determined unanimously to issue this Certificate of Completion.

Appeal

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 from the First-tier Tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.



Karen Moore Chairperson 12 October 2021