

Housing and Property Chamber

First-tier Tribunal for Scotland



Statement of Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber)

(Hereinafter referred to as “the tribunal”)

Issued under Section 19 of the Property Factors (Scotland) Act 2011 (“the Act”)

Case Reference Number: HOHP/PF/16/0169

Re: 90G Glenhove Road, Cumbernauld G67 2LA (the property)

The Parties:

Mr Felipe Dacunha, 59 Kayes Road, Mansfield, Notts NG19 6JP (the homeowner)

Sanctuary Scotland Housing Association Limited, Sanctuary House, 7 Freeland Drive, Glasgow G53 6PG (the property factor)

Tribunal members: Sarah O’Neill (Chairing member), Susan Napier (Ordinary member)

1. In its decision dated 9 May 2017 and issued on 30 May 2017 (“the decision”), the tribunal determined that the property factor had failed to comply with its duties as a property factor under section 14 of the Property Factors (Scotland) Act 2011 (“the Act”) in respect of section 7.1 of the code of conduct for property factors. The reasons for the tribunal’s determination are set out in full in the decision.
2. In terms of section 19 (2) of the Act, the tribunal issued a Notice of Proposal to make a Property Factor Enforcement Order (PFEO) on 30 May 2017. This stated:
 1. *Within 28 days of the communication to the property factor of this Property Factor Enforcement Order, the property factor must:*
 - a. *Issue a formal written apology to the homeowner in respect of the property factor’s failure to comply with its duties under section 7.1 of the code of conduct for property factors.*

9. Therefore, in the circumstances outlined above, and bearing in mind the tribunal's overriding objective in terms of regulation 3 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2016, the tribunal in its discretion decides not to make a PFEO. The tribunal determines that, on the balance of probabilities, the terms of the proposed PFEO have been complied with, and no further remedy is appropriate or necessary under the Act.

Right of Appeal

10. 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.

S O'Neill

Chairing member

Date..... 9/9/17