

Housing and Property Chamber First-tier Tribunal for Scotland



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

Certificate of Compliance following upon a decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) in an application under Section 17(1) of the Property Factors (Scotland) Act 2011

Chamber Ref: FTS/HPC/PF/18/1810

**Flat 2/2, 665 Cumbernauld Road, Alexandra View, Glasgow G33 2EA
("The Property")**

The Parties:-

**Miss Deborah Scott, Flat 2/2, 665 Cumbernauld Road, Alexandra View,
Glasgow G33 2EA
("the Homeowner")**

**Park Property Management Ltd, 11 Somerset Place, Glasgow G3 7JT
("the Factor")**

Tribunal Members

Graham Harding (Legal Member)

David Hughes Hallett (Ordinary Member)

Decision

The Tribunal has determined that the Factor has complied in full with the terms of the Property Factor Enforcement Order ("PFEO") issued on November 2018 therefore no further action is required.

The decision is unanimous.

Statement of Reasons

1. Following an application by the Homeowner and a hearing on 26 September 2018 the Tribunal determined that the Factor had failed to comply with the Section 14 duty in the Property Factors (Scotland) Act 2011 ("the Act") in respect of compliance with the Property Factors Code of Conduct ("the Code")
2. The Tribunal issued a Notice of Proposed PFEO together with its decision on 12 October 2018 and invited representations within 14 days of the Notice being received by the parties.

3. By email received on 17 October 2018 the Homeowner requested the Tribunal review its decision and proposed PFEO.
4. The Tribunal considered the Homeowner's request for a review and by its decision dated 18 November 2018 unanimously refused the request.
5. The Tribunal decided to issue a PFEO on 26 November 2018 and this was intimated to both parties. The PFEO was in the following terms:-
 - (1) The Factor must in any future Budget Reconciliation Statements ensure that there is a clear differentiation made between actual expenditure and any funds accrued as a reserve for potential future expenditure.
 - (2) The Factor must make a payment of £200.00 to the Homeowner from its own funds within 30 days of the date of issue of this order and produce confirmation to the Tribunal that it has done so within 7 days of payment being made.
6. By correspondence dated 8 January 2019 the Factor advised the Tribunal that the actions required in the PFEO had been completed and the Factor did not wish the Tribunal to consider a variation or revocation of the PFEO.
7. By email dated 2 February 2019 the Homeowner advised the Tribunal that she had received a cheque and therefore the compensation part of the PFEO had been completed. She said that time would tell if the other part of the PFEO with regards to actual charges will be honest and transparent. She agreed that the actions required by the PFEO had been completed and did not wish the Tribunal to consider a variation or revocation of the PFEO
8. The Tribunal having considered matters and being satisfied that the proposed PFEO has been complied with by the Factor has determined that no further action is required.

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

✓ Graham Harding
Legal Member and Chairperson

9 February 2019