



Decision: Section 17 of the Property Factors (Scotland) Act 2011 (“the 2011 Act”) and the Property Factors (Scotland) Act 2011 Codes of Conduct for Property Factors.

Chamber Reference: FTS/HPC/PF/22/3879

Re: Property at 18 The Meadows, Dalbeattie, DG5 4AS (“the Property”)

Parties:

Mr Tom Barry, 12 Hameau de la Ville, 50760 Anneville en Saire, France (“the Applicant”)

Lowther Homes Limited, Wheatley House, 25 Cochrane Street, Glasgow, GL1 1HL (“the Respondent”)

Tribunal Members:

Martin McAllister, solicitor, (Legal Member) and Mary Leyden, (Ordinary Member) (“the tribunal”)

Background

1. This is an application by the Applicant in respect of the Property in relation to the Respondent’s acting as a property factor. The application is in terms of Section 17 of the Property Factors (Scotland) Act 2011 (the 2011 Act). The application alleges that the Respondent has not complied with the Property Factors (Scotland) Act 2011 Code of Conduct for Property Factors (2021 version) (“the Code”) and has failed to comply with the property factor’s duties.
2. A Hearing was held on 3 August 2023.
3. Subsequent to the Hearing, a Decision and a proposed property factor enforcement order (“PFEO”) was issued to the parties. The proposed PFEO was issued in terms of Section 19(2) of the 2011 Act and was dated 25 August 2023.
4. On 15 September 2023, the tribunal determined to make a PFEO in the following terms:

- 4.1 **The Tribunal requires the Property Factor to pay the sum of Three Hundred pounds (£300) to the Homeowner within thirty days of the service on it of the final PFEO in terms of Section 19 (3) of the 2011 Act.**
- 4.2 **The Property Factor undertakes that it will communicate with the Homeowner by using his preferred email address in relation to all matters concerning the Property to include, without prejudice to the foregoing, all financial statements, correspondence with regard to repair issues and general correspondence sent to all homeowners. The undertaking must be provided to the Tribunal within thirty days of the service on it of the final PFEO in terms of Section 19 (3) of the 2011 Act.**

Compliance

5. On 18 September 2023, the Property Factor emailed the Tribunal and stated that £300 had been paid to Mr Barry. The email also stated that diary entries had been made to ensure that the Applicant receives future bills by email.
6. On 27 October 2023, the Applicant emailed the Tribunal and confirmed that the terms of the PFEO had been complied with.
7. The tribunal was satisfied that, from the information provided by the parties, the PFEO had been complied with and it determined to issue a certificate of compliance.

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.



**Martin J. McAllister
Legal Member
12 November 2023**