



Statement of Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) in terms of Section 43 of The Tribunals (Scotland) Act 2014 and Rule 39 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017

Review of a Decision of the First-tier Tribunal for Scotland

Chamber Ref: FTS/HPC/PF/23/0679

Property: 31 Lothian Street, Edinburgh EH1 1HE (“the Property”)

The Parties:-

Mrs Cecilia Carlsson, Flat 2501, BLK82, Bamboo Grove, 74-86 Kennedy Road, Wanchai, Hong Kong S.A.R (“the homeowner”)

James Gibb Property Management Limited, registered in Scotland under the Companies’ Acts (SC299465), having their registered office at Bellahouston Business Centre, 423 Paisley Road West, Glasgow G51 1PZ and having a place of business at 4 Atholl Place, Edinburgh EH3 8HT (“the property factors”)

Tribunal Members:

George Clark (Legal Member/Chairman) and Robert Buchan (Ordinary Member)

Decision

The Tribunal, at its own instance, reviewed its Decision of 20 October 2023 and decided that the Property Factor Enforcement Order made on that date should be withdrawn.

Background

1. On 15 September 2023, the First-tier Tribunal for Scotland (Housing and Property Chamber) ('the Tribunal'), determined that the property factors had failed to comply with OSP11 and Sections 2.7, 6.1, 6.4 and 7.1 of the Property Factors Code of

Conduct effective from 1 October 2012 and had failed to carry out the property factor's duties and gave notice of its intention to make a Property Factor Enforcement Order ("PFEO") requiring the property factors to make a payment of £750 to the homeowner by way of compensation.

2. On 20 October, having had no response from either Party to its Decision, the Tribunal made the PFEO, but on 23 October 2023, the property factors advised the Tribunal that they had made the payment to the homeowner on 6 October, and on 24 October, the homeowner advised the Tribunal that she had received it on 6 October.

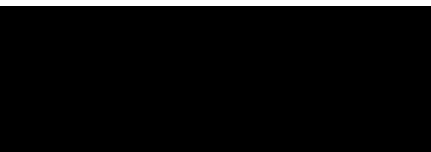
Reasons for the Decision

3. Section 43 of the Tribunals (Scotland) Act 2014 provides that the Tribunal may review a decision made by it in any matter in a case before it, and that its decision is reviewable either at its own instance or at the request of a party to the case. Rule 39 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may, either at its own instance or at the request of a party, review its decision, provided the application for review is made in writing and copied to the other parties, is made within 14 days of the date that the written decision was sent to the parties and sets out a reason why a review of the decision is necessary.
4. The view of the Tribunal was that, had it been aware that the payment had been made on 6 October, it would have regarded the making of a PFEO as unnecessary. Accordingly, it was in the interests of justice that its Decision to make the Order should be reviewed and that the Order of 20 October 2023 should be withdrawn.

The Decision of the Tribunal was unanimous.

Right of appeal

A decision of the First-tier Tribunal relating to an application for Review of a Decision it has made cannot be appealed or reviewed. Where an application for Review is refused by the First-tier Tribunal, the party can seek permission to appeal the original decision from the Upper Tribunal. The party must seek permission to appeal to the Upper Tribunal within 30 days of the date the First-tier Tribunal's decision on the application for Review was sent to the Parties



George Clark
Legal Member/Convener

Date: 24 October 2023