



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Rule 26 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.

Case reference FTS/HPC/PF/23/0499

Parties

Mrs Mary Ann Ferguson (Applicant)

Lowther Homes (Respondent)

2/2 77 Thornwood Drive, Glasgow, G11 7UF (Property)

Tribunal Member: Jacqui Taylor (Legal Member)

The Tribunal rejects the application by the applicant dated 16th February 2023, being an application under section 17(1) of the Property Factors (Scotland) Act 2011. The Tribunal sent the applicant a letter dated 4th May 2023 which was in the following terms:-

'Your correspondence has been considered by one of the legal convenors. She has indicated that further information is required before a decision can be made on the validity of your application or whether it should be referred to a tribunal:-

1. Your email dated 11th April states that you do not have evidence of posting your letter to the factor dated 12th January 2023. If you wish to include the breach of property factor duties in your application you need to provide evidence that you have notified them to the Property Factor. We attach a copy of your letter dated 12th January 2023. Please provide evidence that you have resent it to Property Factor by providing a copy of the sent email or recorded delivery slip.

2. We note from your amended application form that you wish to complain that the property factor has failed to comply with 6.1 and 7.1 of the 2021 code of conduct for property factors. Whilst you have provided a copy of your letter to the Property factor dated 16th February 2023 that letter does not give the Factor sufficient notification of

your Code complaints. We need to see evidence that you have specifically notified the property factor of your complaints. Please write to the property factor, setting out in turn each specific paragraph of the code you believe it has failed to comply with, and setting out the reasons why you believe it has failed to comply with each of these paragraphs. We enclose a template notification letter relating to breaches of the 2021 code of conduct, which you may wish to use. This is the letter which states 'I believe you have failed to comply with the 2 Code of Conduct for Property Factors since the date you became a registered property factor'.

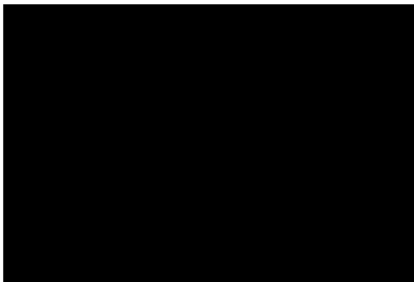
3. Please send us a copy of your letter of notification, together with proof of sending, which may be a copy of a sent email, proof of sending by recorded delivery or a written acknowledgement from the property factor. Please also send us any response you receive from the Property Factor. You must allow the Property Factor a reasonable period of time to respond to your letter. Please allow a period of 21 days for the Property Factor to respond, and let us know if you have not received a response within that timescale.

Please reply to this office with the necessary information by 1 June 2023, when your application will be further considered by the Chamber President. If we do not hear from you within this time, the Chamber President may assume that the dispute has been resolved and consequently may reject the application in terms of Section 18(2) of the Act. It is, therefore, important that you respond within the timescale given.'

The applicant has not provided the Tribunal with the required information despite sending reminders to the applicant dated 2nd June 2023 and 1st September 2023.

Accordingly the Tribunal have good reason to believe that it would not be appropriate to accept the application and reject the application in terms of rule 8 (1)(c) of the Tribunal Rules.

In terms of Section 46 of the Tribunal (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



.....Legal Member

Date: 2nd October 2023