

Housing and Property Chamber

First-tier Tribunal for Scotland



Decision of the First-tier Tribunal for Scotland Housing and Property Chamber issued under Section 19(1) of the Property Factors (Scotland) Act 2011 (“the Act”) and The First-Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, in an application made to the Tribunal under Section 17 of the Act

Chamber reference: FTS/HPC/LM/23/2043

The Parties:

Mr David Philips, Flat 0/4, 53 Helenslee Road, Dumbarton G82 4BS (“the homeowner”)

and

Speirs Gumley Property Management Limited, incorporated in Scotland under the Companies Acts (SC078921) and having their registered office at 270 Glasgow Road, Glasgow G73 1UZ (“the property factors”)

Tribunal Members – George Clark (Legal Member/Chairman) and Mary Lyden (Ordinary Member)

Decision

The Tribunal decided not to make a Property Factor Enforcement Order against the property factors, as the compensation payment that it proposed to award within the Order has been made by the property factors to the homeowner.

Background

Following a Case Management Discussion held on 18 December 2023, the Tribunal upheld the homeowner’s complaint that the property factors had failed to comply with their duties in terms of Section 2.6 of the Property Factors Code of Conduct effective

16 August 2021, made under Section 14 of the Property Factors (Scotland) Act 2011.

The Tribunal's Decision was intimated to the Parties, who were advised that the Tribunal proposed to make a Property Factor Enforcement Order ("PFEO"), instructing the property factors to pay the homeowner the sum of £26 by way of compensation.

On 2 February 2024, prior to the Tribunal making the Order, the homeowner confirmed that she had received the compensation that the Tribunal proposed to order the property factors to pay.

Reasons for Decision

As the property factors have paid the compensation figure that would have been included in the PFEO, the Order is no longer necessary.

The Tribunal's Decision was unanimous.

Appeals

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.



Signature of Legal Chair Date 19 February 2024