

Housing and Property Chamber

First-tier Tribunal for Scotland



Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) issued under section 31 of the First-tier Tribunal for Scotland Housing and Property Chamber Procedure Regulations 2016.

CERTIFICATE OF COMPLIANCE with the PROPERTY FACTOR ENFORCEMENT ORDER DATED 15th December 2017 ('The PFEO')

Chamber Ref:FTS/HPC/PF/16/1011

Flat 3/2, 7 Radnor Street, Glasgow, G3 7UA ('the Property')

The Parties:

David Shields, 11 Denbeath Court, Ferniegar, Hamilton, ML3 7TR ('the Homeowner')

Apex Property Factor Limited, 46 Eastside, Kirkintilloch, East Dunbartonshire, G66 1QH ('the Factor')

Committee members:

Jacqui Taylor (Chairperson) and Carolyn Hirst (Ordinary Member).

Decision of the Tribunal

The Tribunal having determined that the PFEO relating to the Property has been complied with, certifies that the Factor has complied with the PFEO.

Reasons for the Decision

1. The Factor confirmed to the Tribunal on 10th May 2018 that the actions required by **The PFEO** namely:

(First) The Factor is directed to pay the Homeowner the sum of £607.50 (being the reimbursement of the sum of £237.50 plus £120 legal expenses the Homeowner had been charged for the preparation and registration of the Notice of Potential Liability and £250 compensation for the stress and inconvenience suffered by the Homeowner). The said sum should be paid from their own funds and at no cost to the Homeowner within 28 days of the communication to them of the Property Factor Enforcement Order.

(Second) The Factor is directed to prepare an accurate Statement of Account detailing all sums charged and payments received from the Homeowner, during the

whole period they factored his property, including the final account. The Factor is also directed to reimburse any balance due within 28 days of the communication to them of the Property Factor Enforcement Order.'

have been complied with.

2. The PFEO was dated 15th December 2017 and was sent to the Factor on 20th December 2017 consequently the Factor had until 18th January 2018 to comply with the PFEO.

3. The Tribunal sent a letter to the Homeowner asking that he confirm that the PFEO has been complied with. He replied advising that he received the payment a day late despite ample notice and reminders.

The Factor sent the Tribunal a copy of the Statement of Account on 10th May 2018 and confirmed that a copy had also been sent to the Homeowner. They also sent a copy of an extract bank statement confirming the bank transfer to the Homeowner of the sum of on 19th January 2018. The Tribunal sent the Homeowner a copy of the Statement of Account on 14th May 2018 but the Homeowner did not provide any written representations in response.

The Tribunal were satisfied that the Factor has complied with the PFEO, albeit that the payment to the Homeowner had been made one day late. As the payment period had included the Christmas and New Year holiday periods the Tribunal did not consider the fact that the payment had been made one day late to be prejudicial to the Homeowner. The Tribunal therefore issues this Certificate of Compliance. No further action is required by the Factor in terms of the PFEO.

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 from the First-tier Tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.

Jacqui Taylor

Signed.....
Chairperson

.....Date 27th June 2018