

Housing and Property Chamber First-tier Tribunal for Scotland



Certificate of Compliance following upon a decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) in an application under section 17(1) of the Property Factors (Scotland) Act 2011

Chamber Ref: FTS/HPC/PF/17/0252

Re: Flats 101, 205, 302 and 401 Clarence House, 37 Carnoustie Street, Glasgow, G5 8PN

The Parties:-

Mr Paul Wood, Euro House, 423 Hillington Road, Hillington Park, Glasgow, G52 4BL ("the Homeowner")

Newton Property Management, 87 Port Glasgow Road, Glasgow, G4 0HF ("the Factor")

Tribunal Members

Ms Helen Forbes (Legal Member)

Mr Andrew Murray (Ordinary Member)

Decision of the Tribunal

The Tribunal having determined that the Property Factor Enforcement Order ("PFEO") relating to the Property issued on 26th July 2018 has been complied with hereby certifies that the Factor has complied with the PFEO.

Reasons for Decision

1. Following an application by the Homeowner and a Hearing on 26th March 2018, the Tribunal determined that the Factor had failed to comply with the Section 14 duty in the Property Factors (Scotland) Act 2011 ("the Act") in respect of compliance with Sections 2.4, 3.3, 4.3, 7.1 and 7.2 of the Property Factor Code of Conduct ("the Code"). The Tribunal issued a PFEO on 26th July 2018 requiring the following:

'Within 30 days of intimation of the PFEO to the Factor, the Factor must:

- 1) Remove the charge for the legal fees incurred by Nick Swan from the accounts of the Homeowner;
 - 2) Remove all late payment charges that relate to (a) the legal fees incurred by Nick Swan; and (b) the charges for electricity to the common areas from the accounts of the Homeowner;
 - 3) Register with Registers of Scotland a Discharge in relation to all Notices of Potential Liability for Costs that are registered against the Clarence House properties owned by the Homeowner, and provide documentary evidence from the Keeper of the Registers of Scotland to the Tribunal that such Notices have been, or are in the process of being, discharged.'
2. The Tribunal has received correspondence from the Factor with evidence that the charges referred to in paragraphs 1) and 2) of the PFEO have been removed from the Homeowner's accounts, and enclosing notification from Registers of Scotland that the Notices of Potential Liability for Costs are in the process of being discharged.
 3. The Homeowner has confirmed that the Factor has complied with the requirements of the PFEO.
 4. Accordingly, the Tribunal is satisfied that the PFEO has been complied with by the Factor. No further action is required by the Factor in terms of the PFEO which is now deemed to be completed.

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.

H Forbes

Legal Member

8th September 2018