

Housing and Property Chamber First-tier Tribunal for Scotland



First-tier Tribunal for Scotland (Housing and Property Chamber)

COMPLETION DECISION: 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/17/0317

Re: 14 Forbes Park, Echt, Westhill, Aberdeenshire, AB82 6HN

The Parties:-

Mrs Paula Houston, 14 Forbes Park, Echt, Westhill, Aberdeenshire, AB82 6HN ("the Homeowner")

The Property Management Company, Little Square, Old Meldrum, Aberdeenshire, AB51 0AY ("the Factor") (represented by Mr John Taylor, Solicitor)

Tribunal Members

Helen Forbes (Legal Member)

Mike Scott (Ordinary Member)

Decision

The Tribunal has determined that the Factor has complied in full with the terms of the varied Property Factor Enforcement Order ("PFEO") issued on 11th April 2018 therefore no further action is required.

The decision is unanimous.

Statement of Reasons

1. By decision dated 21st November 2017, the Tribunal determined that the Factor had failed to comply with sections 1.1bDk and 7.1 of the Code of Conduct for Property Factors ("the Code").
2. The Tribunal issued a Notice of Proposed PFEO together with the decision on 19th December 2017, and invited representations within 14 days of the Notice being received by parties.
3. On 19th December 2017, the Factor requested an extension to the period allowed for representations, given the time of year and the forthcoming holiday

period. The period allowed for representations was extended by the Tribunal to 12th January 2018.

4. Parties indicated their agreement with the terms of the proposed PFEO, and a final PFEO was issued on 5th February 2018. The PFEO required the Factor to draft and provide to each homeowner and to the Tribunal within a period of six weeks a Written Statement of Services and a complaints policy taking cognisance of the requirements of the Code in regard to Sections 1.1bDk and 7.1.
5. On 14th March 2018, the Factor informed the Tribunal that the PFEO had been complied with.
6. On 21st March 2018, the Homeowner informed the Tribunal that the PFEO had not been complied with as the revised Written Statement of Services did not include reasonable timescales for complaints, and it did not set out the procedure for complaints against contractors. The Tribunal considered the representations made and agreed to vary the PFEO to allow further time for compliance.
7. The varied PFEO was issued to parties on 11th April 2018. The terms of the varied PFEO required the Factor to draft and provide to each homeowner within the development and the First-tier Tribunal a Written Statement of Services taking cognisance of the requirements of the Code.
8. On 4th May 2018, the Factor provided a copy of the amended Written Statement of Services and the complaints policy to the Tribunal.
9. On 21st May 2018, the Factor informed the Tribunal that the PFEO had been complied with.
10. On 30th May 2018, the Homeowner informed the Tribunal that she was satisfied that the PFEO had been complied with.
11. The Tribunal is satisfied that the PFEO has been complied with by the Factor.

Right of Appeal

12. 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.

Legal Member and Chairperson

3rd June 2018