

Housing and Property Chamber First-tier Tribunal for Scotland



Decision: Property Factors (Scotland) Act 2011: Section 19(1) (a)

Chamber Ref: FTS/HPC/PF/18/1944

46 North Road, Liff, by Dundee, Angus, Scotland, DD2 5SQ (“The Property”)

The Parties:-

**Mrs Frances Thomson,
46 North Road, Liff, by Dundee, Angus, DD2 5SQ
 (“the homeowner”)**

**J. Reavley Factoring Limited,
17-21 Tait’s Lane,
Dundee, DD2 1DZ,
 (“the property factor”)**

**Tribunal Members:
Martin J. McAllister, Solicitor, (Legal Member)
David Godfrey, Surveyor, (Ordinary Member)
 (the “tribunal”)**

Introduction

In this decision the Property Factors (Scotland) Act 2011 is referred to as “the Act”; the Property Factors (Scotland) Act 2011 Code of Conduct for Property Factors is referred to as “the Code”; the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 are referred to as “the Rules” and the First- tier Tribunal for Scotland (Housing and Property Chamber) is referred to as “the Tribunal.”

Decision

It was determined that the property factor had not complied with Sections 2.5, 3.3, 6.1, 6.9 and 7.2 of the Code and had failed to comply with the property factor’s duties and that a property factor enforcement order be issued. The order required the property factor to pay the sum of £300 to the homeowner in respect of compensation.

It was determined that the property factor has complied with the terms of the property factor enforcement order and that an appropriate certificate be issued to reflect this.

Background

On 12th November 2018 the tribunal determined that the property factor had not complied with the Code and had not carried out the property factor's duties. A proposed property factor enforcement order was intimated to both parties and neither made representations other than an indication from the property factor that it had paid the sum of £300 to the homeowner in respect of the compensation. By email dated 12th December 2018 the homeowner confirmed that he had received the sum of £300 from the property factor.

Determination

The tribunal noted that the sum of £300 had been paid to the homeowner by the property factor. It considered that it was appropriate to make a property factor enforcement order since, in terms of Section 19(3) of the 2011 Act, it must make such an order if it considers that the property factor has failed to comply with the duty in terms of Section 14 of the 2011 Act or to carry out the property factor's duties.

The tribunal noted that the homeowner accepted that he had been paid £300 by the property factor and that it was therefore appropriate that the tribunal issue a certificate confirming that the terms of the property factor enforcement order had been complied with.

Appeals

A homeowner or property factor 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.

Martin J. McAllister

Legal Member and Chair

18th December 2018