

Housing and Property Chamber First-tier Tribunal for Scotland



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

Decision: Property Factors (Scotland) 2011: Section 19

Chamber Ref: FTS/HPC/PF/17/0081 and FTS/HPC/PF/17/0082

Units 6 and 8, 270 Bath Street, Glasgow, G2 4JR (“The Properties”)

The Parties:-

**Dr Rita Ahmad,
The Peppermint Group,
270 Bath Street, Glasgow,
G2 4JR
 (“the Homeowner”)**

**Redpath Bruce Property Management Limited,
103 West Regent Street,
Glasgow,
G2 2DQ
 (“the Property Factor”)**

Members of the tribunal:

Martin J. McAllister, legal member and Andrew Murray, surveyor, ordinary member.

.Decision

The tribunal made no order

Background

On 11th October a Hearing was held to determine the application made by the Homeowner. Subsequently a Decision and proposed property factor enforcement order (pfeo) dated 10th November 2017 was issued to the parties on 16th November 2017. The proposed pfeo referred to the Property Factor making a compensatory payment of £650 to the Homeowner. The parties were invited to make representations on the proposed pfeo.

Representations

Property Factor: Redpath Bruce Property Management Ltd sent a copy of a letter which it had sent to the Homeowner which was dated 23rd November 2017. It was accompanied with a copy of the Homeowner's financial statement with the Property Factor dated 22nd November 2017 which showed an entry detailed "Compensation Payment" and a credit of £650.

Homeowner: Dr Ahmed sent an email dated 23rd November which opened with an appeal to the tribunal to reconsider the financial compensation awarded. The Homeowner's clearly stated opinion was that the level of compensation was insufficient. The Homeowner stated that she and her staff had spent "hundreds of hours spent and endless correspondence written in an attempt to remedy this injustice."

The Homeowner's email in large part re stated the position she took at the Hearing and made reference to written and oral evidence. It referred to payments made by Chubb by the proprietors for a service which the Homeowner considered to be a waste of money. It also referred again to the issue of an obsolete system.

The email made a specific reference to something which the Homeowner said that the Legal Member had said at the hearing about a central heating boiler "which could have blown up at any time."

Reasons for Decision and Disposal

The Tribunal considered the written representations.

It accepted that £650 had already been paid to the Homeowner by the Property Factor.

The Tribunal noted the Homeowner's representations. They did not provide any reasons for increasing the level of compensation other than, in general terms, it was not enough and did not adequately compensate Dr Ahmed who stated that the issue had been costly to her business. The email stated that this "was never mentioned at the hearing." The tribunal considered that it was for the Homeowner to bring evidence to a Hearing to support her position and the email seems to accept that she had not mentioned it. The tribunal had noted the Homeowner's references at the Hearing to payments she had made to the Property Factor which she did not consider to be appropriate in respect of the services provided. This was taken into account by the tribunal. The matter of fixing a sum in compensation is an exercise of the tribunal's discretion. In exercising that discretion the tribunal took into account all the evidence produced to it. In particular the tribunal had taken into account the inconvenience caused to the Homeowner and the share of costs she would have borne.

In considering the Homeowner's representations the tribunal confirmed that an obsolete fire alarm system could still be in working order and it came to this view on the evidence heard at the Hearing and the email from Chubb dated 22nd August 2017. The tribunal did not accept as accurate the remarks attributed to the Legal Member regarding a boiler which "could have blown up at any time." The members of the tribunal recalled the exchange at the Hearing and that what was given as an example of an obsolete installation was a central heating boiler which, though obsolete, was still in safe working order.

The tribunal considered carefully whether or not the level of compensation was appropriate. It decided, on balance, that it was.

The tribunal then considered whether or not it was appropriate to make a pfeo. The compensation had been paid and, in the particular circumstances of the case, it saw no reason to make an order. The tribunal considered that a pfeo would achieve nothing.

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
First –tier Tribunal for Scotland
Housing and Property Chamber

22nd December 2017