

Housing and Property Chamber First-tier Tribunal for Scotland



Decision of the First-tier Tribunal for Scotland Housing and Property Chamber issued under Section 19(1)(b) of the Property Factors (Scotland) Act 2011 and The First-Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2016

Chamber reference: HOHP/PF/16/0101

The Property: 2/1 Sutcliffe Road, Glasgow G13 1BU ('the property')

The Parties:

Stuart Donald, residing at 2/1 Sutcliffe Road, Glasgow G13 1BU ('the homeowner');
and

GHA (Management) Limited, registered in Scotland under the Companies Act 1985, Registered No.SC245072, having their registered office at 177 Trongate, Glasgow G1 5HF, trading as YourPlace Property Management and having a place of business at 25 Cochrane Street, Glasgow G1 1HL ('the property factor')

Decision by the Housing and Property Chamber of the First-tier Tribunal for Scotland in an application under section 17 of the Property Factors (Scotland) Act 2011('the Act')

Tribunal members:

George Clark (Legal Chair) and David Hughes Hallett (Ordinary Member)

Decision

The Tribunal does not propose making a Property Factor Enforcement Order in respect of the failure by the property factor to comply with its duties under Section 14 of the Act.

The Decision is unanimous.

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 as "the Code"; The Homeowner Housing Panel as "HOHP"; and The Housing and Property Chamber of the First-tier Tribunal for Scotland as "the Tribunal".

A Committee of the Homeowner Housing Panel, comprising George Clark (Chair) and David Hughes-Hallett (housing member) determined on 17 November 2016 that the property factor had failed to comply with its duties under Section 14 of the Act. The Committee's decision was intimated to the Parties, along with a Notice issued under Section 19 of the Act, detailing the Property Factor Enforcement Order that the Committee proposed to make. The terms of the proposed Order were:

"Within 4 weeks of the communication to the property factor of the PFEO, the property factor shall (1) confirm to the Committee that it has carried out a review of its procedures to ensure that it accurately records and maintains the names, addresses and contact telephone numbers, together with the preferred method of contact (if expressed) of the homeowners for whom it acts and that the contact information that it passes to third party providers of services is also accurately maintained and (2) pay to the homeowner the sum of £500 by way of compensation for the inconvenience and distress caused by the property factor's failure to comply with the Code and failure to carry out the property factor's duties."

The jurisdiction of the Homeowner Housing Panel transferred to the Housing and Property Chamber of the First-tier Tribunal for Scotland with effect from 1 December 2016. This is, therefore, a decision of the Tribunal.

Following on the intimation to the Parties of the proposed Property Factor Enforcement Order, the property factor, by letter dated 22 December 2016, advised the Tribunal that it had carried out a full review of existing processes to ensure that all customer details were correctly captured on its systems at the point of any change of ownership and that these processes had been reissued to all staff to ensure that the risk of repeat of the matter which had been the subject of the application was minimised. The property factor also advised that a cheque for £500 had been issued to the homeowner via Royal Mail after discussing with the homeowner his preference for post or collection.

On 7 January 2017, the homeowner advised the Tribunal by e-mail that he had received and encashed the cheque for £500.

Reasons for the Decision

The Tribunal is satisfied that the property factor has complied with the requirements of the proposed Property Factor Enforcement Order set out in the Section 19 Notice and that it is, therefore, no longer necessary to make the Order.

Appeals

A homeowner or property factor aggrieved by the decision of the Tribunal may seek leave to appeal from the First-tier Tribunal on a point of law only within 30 days of the date the decision was sent to them.

G Clark

Signature of Legal Chair .

Date 10 February 2017