

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/16/0137

The Property: 1 Craigard Apartments, Ardconnel Terrace, Oban PA34 5DJ (“the property”)

The Parties:

Mrs Mairi Bryce, 1 Craigard Apartments, Ardconnel Terrace, Oban PA34 5DJ (“The Homeowner”)

Mr Calum MacLachlainn and Ms Nicola MacPhail, trading as West Lettings, having a place of business at 9 Combie Street, Oban PA34 4HN (“The Property Factors”)

Tribunal Members – Mr George Clark (Legal Member) and Mrs Sara Hesp (Ordinary Member)

Decision by the Housing and Property Chamber of the First-tier Tribunal for Scotland under Section 19(1)(b) of the Property Factors (Scotland) Act 2011

The Tribunal is satisfied, after taking account of the representations made under Section 19(2)(b) of the Property Factors (Scotland) Act 2011, that the Property Factors have complied with the terms of the Property Factor Enforcement Order that it proposed making following a hearing on 8 February 2017 and that, consequently, it is no longer necessary to make the Order.

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 of Conduct”; and the Housing and Property Chamber of the First-tier Tribunal for Scotland as “the Tribunal”.

REASONS FOR THE DECISION

Following a hearing at The Corran Halls, 54 The Esplanade , Oban on 8 February 2017, the Tribunal decided that the Property Factors had failed to comply with their duties under Section 14 of the Act, in that they had failed to comply with Section 3.6.a of the Code of Conduct. That Decision, together with a Notice issued under Section 19(2)(a) of the Act was sent to the Parties on 24 March 2017. The Notice gave the Parties a period of 14 days from the date of intimation to them of the Decision and Notice within which to make written representations to the Tribunal in terms of Section 19(2)(b) of the Act, and the Decision also included information relating to the right of the Parties to seek to appeal the Decision. Neither Party sought permission to appeal the Decision.

The Property Factors, by e-mail dated 3 April 2017, advised the Tribunal that they had sent cheques for £5 to each of the owners of flats in the building of which the property forms part and attached copies of the cheques and covering letters, also dated 3 April. The Homeowner, by e-mail dated 6 April 2017, confirmed to the Tribunal that she had received her cheque. The Tribunal accordingly determined that, as the Property Factors had taken the action that the proposed Property Factor Enforcement Order would have required them to take, it was not necessary or appropriate to make the Order.

Appeals

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.

Signature of Legal Chair . **G Clark** Date 2 May 2017