

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) of the Property Factors (Scotland) Act 2011 (“the Act”) and The First-Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, in an application made to the Tribunal under Section 17 of the Act

Chamber reference: FTS/HPC/PF/18/2148

The Property: 11C Eastern View, Gourock PA19 1RF (“the property”)

The Parties:

Ms Alison Greenhill, 95 Albert Road, Gourock PA19 1NN (“the homeowner”)

And

River Clyde Homes, a company limited by guarantee (SC329031), having its Registered Office at Roxburgh House, 102-112 Roxburgh Street, Greenock PA15 4JT (“the property factors”)

Tribunal Members – George Clark (Legal Member) and Elizabeth Dickson (Ordinary Member)

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”)

Decision

The Tribunal decided that, whilst the property factors have failed to comply with their duties in terms of Section 2.5 of the Code of Conduct made under Section 14 of the Property Factors (Scotland) Act 2011, it would not make a Property Factor Enforcement Order.

The Decision is unanimous.

Background

Following upon a Hearing on 5 December 2108, the Tribunal determined that the property factors had failed to comply with their duties in terms of Section 2.5 of the Code of Conduct made under Section 14 of the Property Factors Act 2011 ("the Act"). A copy of that Decision was sent to the Parties, along with a Notice under Section 19(2)(a) of the Act that the Tribunal proposed making a Property Factor Enforcement Order ("the Order") which would require the property factors to pay to the homeowner the sum of £200, but would not require any further action on the part of the property factors. Neither party applied for permission to appeal the Decision.

On 4 February 2019, before the Order was made, the property factors advised the Tribunal that they had sent a cheque for £200 to the homeowner and, on 6 February 2019, the homeowner acknowledged that she had received the cheque.

Reasons for the Decision

The Tribunal considered that, as the property factors had complied with the terms of the proposed Property Factor Enforcement Order, no useful purpose would now be served by making the Order.

Decision

The Tribunal decided not to make a Property Factor Enforcement 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 ..

..... Date 14 March 2019

George Clark