

## **CHARGED FOR ANOTHER BUILDING. THREATENED WITH COURT FOR MONEY NOT DUE.**

A Scottish property-factor Tribunal case has established that homeowners were billed for an insurance excess arising from roof repairs to a different building, then pursued by solicitors for sums the Tribunal determined were not due.

In FTS/HPC/PF/24/5709 and FTS/HPC/LM/25/0488, two homeowners brought complaints about James Gibb Property Management. The Tribunal's findings include negligent charging, missing invoices, improper debt pursuit, failure to respect title provisions, and a specific finding that the factor was not honest when preparing an inspection report.

Among the upheld findings:

- The homeowners were charged an insurance excess belonging to another building.
- They were charged for gas at a development without a gas supply.
- Solicitors were instructed to threaten court action for money the Tribunal found was not due.
- James Gibb failed to provide supporting invoices despite repeated requests.
- It disregarded repair authority contained in the title deeds.

The insurance-excess finding is the most important. It goes to the heart of a fundamental principle in Scottish property law: owners of one building are not liable for repairs to another building unless the title deeds expressly provide otherwise.

### **AN INSURANCE EXCESS FOR SOMEBODY ELSE'S BUILDING**

The homeowners lived in a development containing three separate buildings. The titles made owners responsible for the common parts of their own building.

Yet the homeowners were charged a share of an insurance excess arising from roof-leak reinstatement in another building.

James Gibb apparently relied on the fact that the development had a common insurance policy and on wording in its service statement which spread excesses across policyholders.

The Tribunal rejected that approach. Its conclusion could scarcely be clearer:

"This cannot override the terms of the title."

That sentence should matter to every factored homeowner in Scotland. A factor cannot simply decide that because an insurance policy covers a whole development, every homeowner becomes responsible for every excess arising anywhere within it.

The Tribunal determined that this particular excess belonged to the owners of the building where the incident had occurred. Not these homeowners. Yet they had been charged.

James Gibb knew about the relevant roof repair on 3 November 2021. The homeowners did not purchase their flat until January 2022. The Tribunal concluded that the resulting excess should not have been charged to them.

Multiple Overarching Standards of Practice and Code provisions were found to have been breached. The finding was negligence and failure to apply the titles properly.

That distinction is important. But it does not make the error trivial. A professional property factor charged homeowners for an insurance liability which the Tribunal found belonged to owners of another building.

## **SOLICITORS INSTRUCTED FOR MONEY NOT DUE**

The Tribunal found significant negligence in James Gibb's handling of disputed charges. James Gibb itself acknowledged failures in the way disputes were logged and in the clarity of its records.

The result? Solicitors were instructed to pursue money. But the Tribunal determined that the sum was not due. It concluded that the solicitor's letter threatening court action should not have been sent.

Think about the imbalance of power here. A professional factor controls the ledger. The factor decides what appears as due. The homeowner disputes the charges. The records are unclear. And instead of the accounting problem being resolved first, solicitors become involved.

That is why accuracy before debt recovery matters so much. Once a solicitor's letter lands on a homeowner's doormat, the pressure changes immediately.

The Tribunal did not find that the letter itself was abusive. But it did find that James Gibb should never have instructed the solicitor to send it in relation to that sum.

THE PROBLEM WAS NOT THE TONE OF THE DEBT LETTER. THE PROBLEM WAS THAT THE MONEY BEING PURSUED WAS NOT DUE.

A later dispute concerned a £40 late-payment charge. Solicitors then sought £156.61. The Tribunal determined that the late-payment fee should not have been applied and that solicitors should not have been instructed.

One incident can be dismissed as a mistake. But by this point the case contained repeated examples of the same basic control question: Was the amount actually due before the debt-recovery process was activated?

## **A GAS CHARGE AT A DEVELOPMENT WITH NO GAS SUPPLY**

Perhaps one of the most extraordinary entries in the case was a £6.09 gas charge.

There was one obvious problem. The development did not have a gas supply.

James Gibb later said that the charge actually related to electricity at another development.

The Tribunal found negligence, delay and an incorrect initial refund. It also regarded late-payment charges connected to that incorrect charge as unacceptable. And when the homeowners asked for the supporting invoice, it was not supplied.

Pause there. A homeowner was billed for gas. At a property without gas. The eventual explanation was that the cost was actually electricity. From somewhere else.

The amount was small. The control failure was not. Because if a factor's accounting system can place a utility cost from another development onto the wrong homeowner's account, the obvious question is: What control stopped other wrong charges from doing the same thing?

## **WHAT DOES SCOTTISH LAW SAY ABOUT CROSS-BLOCK CHARGING?**

The Tribunal's finding that homeowners cannot be charged for another building's insurance excess sits alongside established principles in Scottish property law.

Under the Tenements (Scotland) Act 2004, costs for maintenance and repairs are allocated according to the title deeds. Where the title deeds are silent, the Tenement Management Scheme provides default rules for how costs are shared among owners of the relevant property.

The legislation does not permit owners of one building to be charged for repairs to a separate building simply because both fall within the same development or share a common insurance policy. Liability follows the titles.

The Scottish Government's guidance on tenement management confirms that title deeds must be followed where they exist, and that the Tenement Management Scheme is a fall-back model that applies only where the deeds have gaps or defects.

The Tribunal's statement that the factor's service arrangements "cannot override the terms of the title" therefore reflects a wider legal principle: a factor's internal accounting approach cannot rewrite the ownership and liability structure created by the title deeds.

## **THE MOST IMPORTANT SENTENCE IN THE ENTIRE CASE MAY BE SIX WORDS LONG**

"This cannot override the terms of the title."

That principle sits at the heart of the insurance-excess finding.

James Gibb had a development-wide policy. It had wording in its service arrangements. But the Tribunal looked at the homeowners' title obligations. And when the two conflicted, the factor's arrangement did not simply rewrite ownership liability.

That is why this case deserves wider attention. Because property factoring is not simply an exercise in dividing invoices by whatever denominator appears convenient.

Before deciding how much a homeowner owes, there is a more fundamental question: Why is that homeowner liable for the cost at all?

In this case, the answer for the other building's insurance excess was: They weren't. And James Gibb was ordered to remove that liability.

IF A PROPERTY FACTOR CAN CHARGE YOU FOR ANOTHER BUILDING, CHARGE YOU FOR A UTILITY YOUR DEVELOPMENT DOESN'T HAVE, AND THEN INSTRUCT SOLICITORS OVER MONEY THE TRIBUNAL FINDS IS NOT DUE — HOW MUCH CONFIDENCE SHOULD A HOMEOWNER PLACE

IN THE NEXT BILL WITHOUT SEEING THE EVIDENCE BEHIND IT?

## **CASE DETAILS**

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*Case reference: FTS/HPC/PF/24/5709 and FTS/HPC/LM/25/0488*

*First-tier Tribunal for Scotland (Housing and Property Chamber)*

*Final enforcement order: 24 February 2026*

*Factor: James Gibb Property Management Ltd*

*Key findings: Homeowners charged insurance excess for another building; solicitors instructed for sums not due; gas charge at development with no gas; title provisions disregarded*

*Compensation awarded: £1,300*

*Compliance certified: 17 May 2026*

*Full decisions: Available via Housing and Property Chamber decisions database*