



ORDER BY SHERIFF ANTHONY DEUTSCH

in the case of

MR COLIN STRAIN & MRS ELEANOR STRAIN, (2/2) 256 Crow Road, Glasgow, G11 7LA

Appellants

against

ROSS & LIDDELL LTD, 60 St Enoch Square, Glasgow, G1 4AW

Respondent

**FTT Case Reference HOHP/PF/14/0076**

24 October 2017

**The Tribunal ORDERS that:**

The Upper Tribunal refuses permission to appeal the First tier Tribunal decision of 25 May 2017.

**Notice to the Parties**

[1] The respondents having resigned as factors it is hard to see how the tribunal could, have reached any other conclusion than that the action required by parts (2), (5), (6) (a) and (c) of the order is no longer necessary. It cannot therefore be said that no reasonable tribunal would have taken the decision to revoke those parts of the order found to be unnecessary.

[2] Notwithstanding its decision to revoke those parts of the order detailed at (4) of its decision the tribunal have decided at (3) that the respondents failed to comply with parts (2), (3) (b), (5), (6) (a) and (c) of the order. The underlying basis of the appeal appears to be a concern that because of the revocation the respondents will escape any consequences for their failure . That concern is in my view misplaced because in terms of section 23 (2) of the Property Factors (Scotland) Act 2011, regardless of the revocation, the tribunal must serve notice of the failure on the Scottish Ministers.