

Housing and Property Chamber

First-tier Tribunal for Scotland



First-tier tribunal for Scotland (Housing and Property Chamber)

**Property Factor Enforcement Order: Property Factors (Scotland) Act 2011,
Section 19(3)**

Chamber Ref: FTS/HPC/PF/18/0132

**3B Ramsay Garden, Edinburgh, EH1 2NA
("The Property")**

The Parties:-

**Mr M A Christopher Lee and Mrs Catherine Lee, 231 Sackett Street, Brooklyn,
New York, 11231, USA
("the Homeowners")**

**Mr R C Matthew Lee, 3B Ramsay Garden, Edinburgh, EH1 2AB
("The Homeowners' Representative")**

**Factotum Scotland Limited, 63 Dublin Street, Edinburgh, EH3 6NS and 5
Hillside Crescent Edinburgh EH7 5DY
("the Property Factor")**

Tribunal Members:

**Susanne L. M. Tanner Q.C. (Legal Member)
Andrew Taylor (Ordinary Member)**

1. This document should be read in conjunction with the decision of the same date of the First-tier Tribunal ("the tribunal") under Section 19(3) of the Property Factors (Scotland) Act 2011 ("the 2011 Act").
2. By decision of even date with this Notice, the Tribunal determined that it must make a Property Factor Enforcement Order.
3. Within 60 days of intimation of the PFEO the Property Factor must:
 - 3.1. Produce and exhibit to the tribunal, the Homeowners and the Homeowners' Representative:

- 3.1.1. a Written Statement of Services for the Tenement which complies with Section 1 of the Code of Conduct.
- 3.1.2. a written procedure to consult with homeowners in the Tenement and the adjoining building to seek their written approval before providing work or services which will incur charges or fees in addition to those in the core service, in accordance with Section 2.4 of the Code of Conduct.
- 3.1.3. A full list of contact details for the proprietors of all of the properties in the Tenement and the adjoining building, where known to the Property Factor, including correspondence addresses, telephone numbers and email addresses, if applicable.
- 3.1.4. A detailed financial breakdown of charges made for the period since the Homeowners purchased the Property to date and a description of the activities and works carried out which were charged for, together with supporting invoices and documentation where applicable.
- 3.1.5. A written debt recovery procedure which complies with Section 4.1 of the Code of Conduct.
- 3.1.6. A written procedure that allows homeowners in the Tenement to notify the Property Factor of matters requiring repair, maintenance or attention, which complies with Section 6.1 of the Code of Conduct.
- 3.1.7. Written confirmation and evidence that the out of hours emergency number has been clearly indicated on the factoring page of the website to be available for the use of homeowners to notify the Property Factor of an emergency.
- 3.1.8. A clear, written complaints resolution procedure which sets out a series of steps, with reasonable timescales linking to those set out in the written statement, which the Property Factor will follow, including how the Property Factor will handle complaints against contractors.

3.2. In relation to the common guttering problem:

- 3.2.1. Obtain and produce copies of three competitive quotations for remedying the guttering problem on the Tenement containing the Property and properties 3/1, 3/2 and the adjoining building containing 4, 5 and 6 Ramsay Garden, taking into account the recommendations of Mr Douglas McDonald Dip BS MRICS, Surveying Solutions Limited, Chartered Building Surveyors, in his Report dated 10 April 2018, para 1.1 and 1.4 (or taking into account any alternative recommendations made in

a fresh report from a qualified building surveyor instructed at the expense of the Property Factor, which Report, if obtained, shall also be produced to the tribunal);

- 3.2.2. Provide the three quotations to all relevant owners in the Tenement (the Property, 3/1 and 3/2) and in the adjoining building (4, 5 and 6 Ramsay Garden), for consultation on the proposals and quotations in accordance with the written process for consultation as referred to in 3.1.2, above;
 - 3.2.3. Request a mandate from the owners in the properties in the Tenement and the adjoining building in accordance with the Deeds of Conditions for the Tenement and the adjoining building and / or the default tenement management scheme if applicable.
 - 3.2.4. In the event of a vote of the appropriate number of owners that the work should proceed and one of the quotations should be accepted, instruct the agreed works, in-gather funds from the owners and instruct the works, providing a timescale in writing.
- 3.3. Pay to the Homeowners or the Homeowners' Representative £750.00, as a contribution towards the cost of the fee paid to Douglas McDonald, Surveying Solutions in respect of his inspection and Report; and provide documentary evidence of said payment.
 - 3.4. Pay to the Homeowners or the Homeowners' Representative £250.00, for the Homeowners' and Homeowners' Representative's time, distress and inconvenience; and provide documentary evidence of said payment.
4. Failure to comply with a PFEO has serious consequences and may constitute an offence.

S Tanner

Susanne L. M. Tanner Q.C.
Legal Member

25 March 2019