

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Property Factor Enforcement Order (“PFOE”)

Property Factors (Scotland) Act 2011 Section 19(3)

Chamber Ref: FTS/HPC/PF/17/0423 and FTS/HPC/PF/17/0340

**Property at 6c Glenford Place, Ayr, South Ayrshire, KA7 1LB
("the Property")**

The Parties:-

Mr Alan Lush
6c Glenford Place, Ayr, KA7 1LB
("the Homeowner")

James Gibb Property Management Ltd
65 Greendyke Street, Glasgow, G1 5PX
("the Property Factor")

Tribunal Members:

Martin J. McAllister (Legal Member)
Andrew McFarlane (Ordinary Member)

This document should be read in conjunction with the First-tier Tribunal's Decision of 4th May 2018 which was served on the on or around 10th May 2018.

In this decision the Property Factors (Scotland) Act 2011 is referred to as “the 2011 Act and the Property Factors (Scotland) Act 2011 Code of Conduct for Property Factors is referred to as “the Code.”

Decision

The Tribunal has decided to make a PFOE in terms of its Decision and Notice of Proposal dated 4th May 2018.

The decision of the Tribunal is unanimous.

Reasons for Decision

1. In the Tribunal's decision of 4th May 2018 it proposed to make a PFOE as follows:

The Tribunal proposes to make a property factor enforcement order requiring the Property Factor to pay £225 compensation to the Homeowner within twenty one days of the property factor enforcement order being made.

2. The Tribunal's decision was intimated to the parties on or about 10th May 2018. No representations on the proposed order under Section 19(2)(b) of the 2011 Act were received by the Tribunal. The Tribunal remained satisfied that the Property Factor had failed to comply with their property factor's duty and their duty under Section 6.4 of the Property Factor's Code of Conduct. Accordingly under Section 19(3) of the 2011 Act the Tribunal was required to make a PFEO.

Property Factor Enforcement Order

The First-tier Tribunal hereby makes the following PFEO:

The Property Factor shall, within twenty one days of the notification of this Order, pay the sum of £225 compensation to the Homeowner.

Under Section 24(1) of the 2011 Act, a person who, without reasonable excuse, fails to comply with a property Failure to comply with a property factor enforcement order commits an offence.

Appeals

A homeowner or property factor 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.

Martin J. McAllister, Legal Member and Chair

25th June 2018