

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/17/0285/0286-0287

**65 Greenrigg Road, Cumbernauld G67 2QB
169 Greenrigg Road, Cumbernauld G67 2QB
223 Greenrigg Road, Cumbernauld G67 2QB
("the Properties")**

The Parties:-

Derek Nicholson and Gary Nicholson, 3 Clairmont Gardens, Glasgow G3 7LW ("Homeowner")

Apex Property Factor Limited, 46 Eastside, Kirkintilloch, Glasgow G66 1QH ("Factor")

Tribunal Members:

**Joan Devine – Chairing and Legal Member
Sara Hesp – Ordinary Member**

This document should be read in conjunction with the First-tier Tribunal's Decision of the same date.

The First-tier Tribunal proposes to make the following Property Factor Enforcement Order ("PFOE"):

1. The Factor will provide to the Homeowner within 28 days of the date of service of this Order a Written Statement of Services as required by section 1 of the Code of Conduct for Property Factors.
2. The Factor will provide to the Homeowner within 28 days of the date of service of this Order a statement showing all invoices rendered by the Factor to the Homeowner and credit notes issued by the Factor to the Homeowner in connection with the Properties and the management of the Development for the period from 1 January 2016 to date.
3. The Factor will provide to the Homeowner within 28 days of the date of service of this Order a detailed financial breakdown of charges made by the Factor to the Homeowner and a description of the activities and works carried out which

were charged for, including explanatory invoices received by the Factor from contractors who have carried out works at the Properties and the Development along with any relevant timesheets for the period from 1 January 2016 to date.

4. The Factor will pay to the Homeowner within 28 days of the date of service of this Order the sum of £500 as compensation for the inconvenience caused to the Homeowner.

Section 19(2) and (3) of the 2011 Act provides as follows:

"(2) In any case where the First-tier Tribunal proposes to make a property factor enforcement order, it must before doing so—

- (a) give notice of the proposal to the property factor, and*
- (b) allow the parties an opportunity to make representations to it.*

(3) If the First-tier Tribunal is satisfied, after taking account of any representations made under subsection (2)(b), that the property factor has failed to carry out the property factor's duties or, as the case may be, to comply with the section 14 duty, the First-tier Tribunal must make a property factor enforcement order."

The intimation of the First-tier Tribunal's Decision and this proposed PFEO to the parties should be taken as notice for the purposes of section 19(2)(a) and parties are hereby given notice that they should ensure that any written representations which they wish to make under section 19(2)(b) reach the First-tier Tribunal by no later than 14 days after the date that the Decision and this proposed PFEO is sent to them by the First-tier Tribunal. If no representations are received within that timescale, then the First-tier Tribunal is likely to proceed to make a property factor enforcement order without seeking further representations from the parties.

Failure to comply with a PFEO has serious consequences and may constitute an offence.

J Devine

Signed
Joan Devine, Legal Member and Chair

.....18 May 2018
Date