



**Property Factor Enforcement Order issued under Section 19 of the
Property Factors (Scotland) Act 2011 (the 'Act') and the Homeowner
Housing Panel (Applications and Decisions) (Scotland) Regulations 2012**

HOHP Ref: HOHP PF/14/0198

**Re: Property at Flat 2/2, 665 Cumbernauld Road, Alexandra View, Glasgow
G33 2EA ('the Property')**

The Parties

MISS DEBORAH SCOTT, residing at the Property ('the Homeowner')

and

**Be-Factored Ltd (formerly Property2 Ltd), 2a North Kirklands, Eaglesharn
Road, Glasgow G76 0NT ('the Factors')**

Committee members: David Preston (Chairman); and Susan Napier (Surveyor Member):

WHEREAS in its decision dated 7 June 2015 the Committee determined that the Factor had failed to comply with the Code of Conduct for Property Factors ("the Code"); and to carry out the property factor's duties and it determined to issue a Property Factor Enforcement Order (PFEO).

The required Notice of Proposal PFEO under Section 19 (2) of the Act was given to the parties on 9 June 2015 to allow them a period of 21 days from that date within which to make representations.

By letter dated 6 July, the Factors intimated that they intended to appeal against the decision of the Committee on a point of law, namely that the decision and PFEO ordered the Factor to make payment to the homeowner of a sum equivalent to 25% of the management fees paid by the Homeowner between the date on which the Factors took on responsibility for the management of the development at Alexandra View until the date on which the Factors refunded the overpayment of electricity charges to the Homeowner. They pointed out that part of that period pre-dated the date of commencement of the Act and their registration as property factors thereunder.

The Homeowner made no representations in respect of the Notice of Proposed PFEO.

The Committee considered the letter from the Factors, which it determined to accept as representations in respect of the Notice of Proposed PFEO in terms of section 19(2), notwithstanding that it was submitted after the time limit imposed in the Notice of Proposed PFEO.

Having resumed consideration of the terms of the PFEO, the Committee acknowledged and accepted the point made by the Factor and decided to increase the compensation payable to the Homeowner by a sum of £94 as a reasonable sum to take account of the standard of service provided by the Factor between the date of their registration and the date on which the refund of the electricity overcharge was made.

Accordingly the Committee makes the following Property Factor Enforcement Order:

Within one month of the date of service of this PFEO, the Factors will:

1. Provide the Homeowner with a copy of the invoice from MRH Electricals relative to that firm's visit to the development and to confirm the block in respect of which the visit was made. In the event that the invoice either: confirms that the visit was to 661 Cumbernauld Road; or is inconclusive as to which block was visited, the Factors will refund to the Homeowner in full the amount of that invoice attributable to the Property.
2. Provide the Homeowner with the tracking information from Simply Gardening to confirm the visits that firm made to the Property.
3. Provide to the Homeowner, a detailed explanation of the calculation of the discrepancy in the Scottish Power accounts as between Blocks 661 and 665 Cumbernauld Road along with an explanation for the difference between the amounts of the underpayment by Block 661 and the overpayment by Block 665.
4. Pay to the Homeowner the sum of £294 by way of compensation for the inconvenience, stress and anxiety occasioned to her as a result of her efforts throughout her period of ownership of the Property and to reflect the standard of service received by her since the date of registration of the Factor. The said sum to be paid from the Factors' own funds and at no cost to the homeowners.

Failure to comply with a Property Factor Enforcement Order may have serious consequences and may constitute an offence

APPEALS:

1. The parties' attention is drawn to the terms of Section 22 of the Act regarding the right to appeal and the time limit for doing so. It provides:
"...(1) an appeal on a point of law only may be made by summary application to the Sheriff against the decision of the President of the Homeowner Housing Panel or Homeowner Housing Committee.
(2) an appeal under subsection (1) must be made within the period of 21 days beginning with the day on which the decision appealed against is made..."

...Chairman

27-7-15date