

# Housing and Property Chamber

## First-tier Tribunal for Scotland



**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal")  
Property Factors (Scotland) Act 2011 ("the Act")**

**Property Factor Enforcement Order ("PFOE") Section 19 of the Act**

**Chamber Ref: FTS/HPC/PF/21/0458**

**Re.: 66 Silvertrees Wynd, Bothwell, G71 8FH ("the property")**

**The Parties: -**

Mrs Eileen Wright, 66 Silvertrees Wynd, Bothwell, G71 8FH (**"the homeowner"**) represented by Ms Caroline Adams, 18 Silvertrees Wynd, Bothwell, G71 8FH

Miller Property Management Limited, Suite 2.2, Waverley House, Caird Park, Hamilton, ML3 0QA (**"the property factor"**)

**Tribunal Members:** - Simone Sweeney (Legal Member) Andrew Taylor (Ordinary Member)

**Decision**

Having determined that the property factor has failed to comply with sections 2.1, 2.5 and 2.7 of the Code of Conduct for Property Factors ("the Code") as required by section 14 of the Act and the Property Factor's duties as required by section 17 (1) (a) of the Act, the Tribunal makes a property factor enforcement order ("PFOE") in terms of section 19 (1) (b) of the Act. The decision of the Tribunal is unanimous.

**Reasons for decision**

1. Reference is made to previous procedure and the decision and proposed PFEO of the Tribunal of 31<sup>st</sup> March 2022. That decision and proposed PFEO were issued to parties by email from the Tribunal's administration. Parties were given notice of the proposed PFEO and provided an opportunity to make representations in terms of section 19 (2) of the Act. The final date for any representations from parties was 4<sup>th</sup> May 2022.
2. To date, no representations have been received from either party.
3. The Tribunal is satisfied that the property factor has failed to carry out the property factor's duties and to comply with the section 14 duty. Accordingly the Tribunal must make a PFEO in terms of section 19 (3) of the Act.
4. The PFEO is in the following terms:-

*Within 28 days from the date of issue of this order, for the property factor to:-*

- a. *provide to the homeowner payment of £750 in recognition of: - the content of the property factor's email of 21<sup>st</sup> January 2021; the property factor's failure to reply to the homeowner's communications of, 22<sup>nd</sup> January, 2<sup>nd</sup> February and 25<sup>th</sup> February and 14<sup>th</sup> March 2021; to follow the property factor's complaints procedure and; in recognition of the time, preparation and inconvenience the homeowner has expended in having to bring this application and the property factor's failure to comply with the Property Factor's duties as required by section 17 (1) (a) of the Act.*
- b. *To provide evidence of same to the Tribunal's administration.*

Failure to comply with a PFEO may have serious consequences and may constitute a criminal offence.

## **Appeals**

5. In terms of section 46 of the Tribunals (Scotland) Act 2014, a party 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 within 30 days of the date the decision was sent to them.

Simone Sweeney

Legal Member

5<sup>th</sup> May 2022