

# Housing and Property Chamber

## First-tier Tribunal for Scotland



**Decision of the First-tier Tribunal for Scotland Housing and Property Chamber  
In an Application under section 17 of the Property Factors (Scotland) Act 2011**

by

**Ronan Brolly, 16/7 Murano Place, Leith, Edinburgh EH7 5HG ("the Applicant")**

**James Gibb Residential Factors, 4 Atholl Place, Edinburgh EH3 8HT ("the Respondent")**

**Re: 16/7 Murano Place, Leith, Edinburgh EH7 5HG ("the Property")**

**Chamber Ref: FTS/HPC/PF/1856**

**Tribunal Members:**

John McHugh (Chairman) and Sara Hesp (Ordinary (Surveyor) Member).

**DECISION**

**The Tribunal decides to issue a Property Factor Enforcement Order.**

The decision is unanimous.

## **REASONS FOR DECISION**

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

In our decision of 11 November 2019 we found that the Respondent had breached its duties arising under the Code but had not breached its property factors duties. We provided the parties with a copy of a proposed Property Factor Enforcement Order (“PFEO”) for their comment. The proposed PFEO provided as follows:

*“Within 31 days of the date of the communication to the Respondent of this property factor enforcement order, the Respondent must:*

*1 Pay to the Applicant the sum of £500.*

*2 Produce a programme of works for the maintenance of the building which includes regular inspections of the roof and clearing of gutters with the frequency required according to the professional advice given to the Respondent by its surveyors.*

*3 Confirm in writing to the office of the Tribunal that steps 1 and 2 have been carried out.”*

Representations have been received from the parties on the terms of the proposed PFEO. These have been dealt with in the context of applications for Review and a written Decision in respect of those applications contains the Tribunal's decision and should be referred to.

The Tribunal, having considered the parties representations, finds no basis to alter the terms of the proposed PFEO. In the circumstances, issuing the PFEO in identical terms to the proposed PFEO would appear to be required in terms of section 19(3) of the 2011 Act and we hereby do so.

## **APPEALS**

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 from the First-tier Tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.

**JOHN M MCHUGH**

**CHAIRMAN**

**DATE: 20 December 2019**