

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

Proposed Property Factor Enforcement Order (“PPFEO”): Property Factors (Scotland) Act 2011 Section 19(2)

Chamber Ref: FTS/HPC/Property Factor/22/3982 and FTS/HPC/Property Factor/4023

Flat 2/3, The Pirns, King Street, Galashiels TD1 1PX (“the Property”)

Parties:-

John Rankine, Morva, 9 Buccleuch Street, Innerleithen, EH44 6LA (“the Homeowner”)

James Gibb Residential Factors, Bellahouston Business Centre, 423 Paisley Road West, Glasgow, G51 1PZ (“the Property Factor”)

The Tribunal:-

Melanie Barbour (Legal Member)

David Godfrey (Ordinary Member)

This document should be read in conjunction with the First-tier Tribunal’s Decision of 5 January 2024 and subsequent Decision of a Review Request of 19 February 2024.

Decision

1. The Tribunal has decided that it should make a PFEQ.
2. The decision of the Tribunal is unanimous

Reasons for Decision

3. In the Tribunal's decision of 5 January 2024, it proposed to make a PFEO as follows:

1. Within a period of two months from the date of the PFEO the Factor must:
 - a. Set up a meeting inviting all owners of properties in the development at the Pirns, King Street, Galashiels ("the development") to consider
 - i. the terms of the development schedule,
 - ii. to agree what items of communal property will be defined in the areas of responsibility of the factors;
 - iii. to agree the frequency in which it will carry out property inspections and carryout communal maintenance works;
 - iv. to consider and agree the level of delegated authority required and amend if appropriate; ,
 - v. to consider and agree if a float is required and the value of it.
 - vi. to consider and agree how often the factor's will hold an owners' meeting and to determine the date of the first owner's meeting.
 - b. To consider and agree with owners :-
 - i. what outstanding repairs are required to be carried out to the development having regard to the findings of the F3 Survey or any further survey carried out for the development
2. Within a period of three months from the date of the PFEO the Factor must:
 - a. Seek agreement with owners of properties in the development at the Pirns, King Street, Galashiels about the timetable for

works that will be done and to draw up a programme of works which shall set out all repair and maintenance works to be carried out and a timetable when all works will be commenced and a proposed date when each work will be completed;

- b. Provide quotes to the owners for the costs of all proposed works; and
- c. Ingather all costs from owners and commence works in terms of the agreed timetable of proposed works; failing which report to all owners that the works cannot commence due to lack of agreement/ and or funds, and to arrange to hold a further owner's meeting to discuss alternative progress.

3. Within a period of three months from the date of the PFEO the Factor must pay the homeowner compensation of ONE THOUSAND TWO HUNDRED POUNDS (£1,200.00) STERLING for the inconvenience suffered.

4. Provide to the Tribunal written confirmation that items (1) to (3) have been completed.

4. The Tribunal indicated that prior to making a property factor enforcement order, it would provide the parties with a period of fourteen days within which to make representations under section 19(2)(b) of the Act.

5. The Tribunal's decision was intimated to the parties on 9 January 2024.

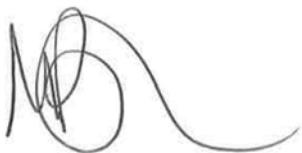
6. The Homeowner sought a review of the Tribunal's decision 23 January 2024. The Homeowner made written representations in respect of the proposed property factor enforcement order as part of that review. The Homeowner's review request was not upheld in terms of that ground of their review request. The Tribunal's decision of the Homeowner's review request was dated 19 February 2024.

7. The property factor made no written representations.
8. The Tribunal considered that it should therefore make the PFEO in the terms set out above.

Under Section 24(1) of the Property Factors (Scotland) Act 2011, a person who, without reasonable excuse, fails 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.



Melanie Barbour

Legal Member and Chair

22 February 2024