

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Property Factors (Scotland) Act 2011 ("the Act")

Proposed Property Factor Enforcement Order ("PFEO") Section 19

The First-tier Tribunal for Scotland, Housing and Property Chamber (Rules of Procedure)

Amendment Regulations 2017 ("the regulations")

Chamber Ref: FTS/HPC/PF/21/0602

Re.: Flat 60, Kyle Court, Smith Street, Ayr, KA7 3AW ("the property")

The Parties: -

Mr James Crichton, Flat 60, Kyle Court, Smith Street, Ayr, KA7 3AW ("the homeowner")

First Port Property Services Scotland, Troon House, 3rd Floor, 199 St Vincent Street, Glasgow, G2 5QD ("the property factor")

The Tribunal members: Simone Sweeney (Legal Chair) and Mary Lyden (Ordinary Member)

This document should be read in conjunction with the decision of the Tribunal of even date under the reference number noted above.

1. By decision of even date with this Notice, the Tribunal determined that the property factor has failed to comply with sections 2.5, 3.1, 7.1 and 7.2 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.

2. Therefore, the Tribunal makes the following PFEO:

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

- provide to the homeowner payment of £400 in recognition of:- the property factor's failure to reply timeously to communications sent on behalf of the homeowner on 29th October, 19th November and 9th December 2020; the failure to make available to the homeowner all financial information within three months of 6th January 2020; the failure to follow the property factor's own complaints procedure; the failure to provide accurate information of how the homeowner may apply to the Tribunal and; in recognition of the time, preparation and inconvenience the homeowner has expended in having to bring this application.
- To provide evidence of same to the Tribunal's administration.

3. Section 19 of the 2011 Act provides:

"(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.

(4) Subject to section 22, no matter adjudicated on by the First-tier Tribunal may be adjudicated on by another court or tribunal."

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

Legal Chair, at Glasgow on 24th September 2021