

Housing and Property Chamber

First-tier Tribunal for Scotland



Notice of proposal to make a Property Factor Enforcement Order made under Section 19(2)(a) of the Property Factors (Scotland) Act 2011 as amended (“the 2011 Act”) following upon a Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) (the tribunal) in an application under Section 17(1) of the 2011 Act.

Chamber Reference: FTS/HPC/PF/22/3879

Re: Property at 18 The Meadows, Dalbeattie, DG5 4AS (“the Property”)

Parties:

Mr Tom Barry, 12 Hameau de la Ville, 50760 Anneville en Saire, France (“the Applicant” and the “Homeowner”)

Lowther Homes Limited, Wheatley House, 25 Cochrane Street, Glasgow, GL1 1HL (“the Respondent” and the “Property Factor”)

Tribunal Members:

Martin McAllister, solicitor, (Legal Member) and Mary Leyden, (Ordinary Member) (“the tribunal”)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the tribunal”) considered matters and proposed that a property factor enforcement order should be made.

This document should be read in conjunction with the tribunal’s Decision of the same date under Section 19(1) (a) of the 2011 Act.

The tribunal proposes to make the following Property Factor Enforcement Order (“PFEO”):

- 1. The Tribunal requires the Property Factor to pay the sum of Three Hundred pounds (£300) to the Homeowner within thirty days of the service on it of the final PFEO in terms of Section 19 (3) of the 2011 Act.**
- 2. The Property Factor undertakes that it will communicate with the Homeowner by using his preferred email address in relation to all**

matters concerning the Property to include, without prejudice to the foregoing, all financial statements, correspondence with regard to repair issues and general correspondence sent to all homeowners. The undertaking must be provided to the Tribunal within thirty days of the service on it of the final PFEO in terms of Section 19 (3) of the 2011 Act

Section 19 of the 2011 Act provides as follows:

“... (2) In any case where the First-tier Tribunal proposes to make a property factor enforcement order, it must before doing so...

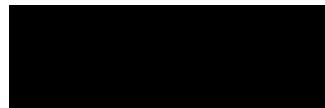
- (a) give notice of the proposal to the property factor, and
- (b) allow the parties an opportunity to make representations to them.

(3) If the First-tier Tribunal is satisfied, after taking account of any representations make 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 tribunal must make a property factor enforcement order...”

Intimation of the tribunal’s Decision and this notice of proposal to make a PFEO to the parties should be taken as notice for the purposes of section 19(2) (a) of the 2011 Act and parties are hereby given notice that they should ensure that any written representations which they wish to make under section 19(2) (b) of the Act reach the tribunal’s office by no later than twenty one days after the date that the Decision and this notice is intimated to them. If no representations are received within that timescale, then the tribunal is likely to proceed to make a property factor enforcement order (“PFEO”) without seeking further representations from the parties.

Failure to comply with a property factor enforcement order may have serious consequences and may constitute an offence.

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.



Martin J. McAllister
Legal Member.

25 August 2023