

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Property Factor Enforcement Order (“PFEO”): Property Factors (Scotland) Act 2011 Section 19(3)

Chamber Ref: FTS/HPC/PF/17/0317

Re: 14 Forbes Park, Echt, Westhill, Aberdeenshire, AB82 6HN

The Parties:-

Mrs Paula Houston, 14 Forbes Park, Echt, Westhill, Aberdeenshire, AB32 6HN
("the Homeowner")

The Property Management Company, Little Square, Old Meldrum, Aberdeenshire, AB51 0AY ("the Factor") (represented by Mr John Taylor, Solicitor)

Tribunal Members

Helen Forbes (Legal Member)

Mike Scott (Ordinary Member)

This document should be read in conjunction with the First-tier Tribunal's Decision of 21st November 2017.

Decision

The Tribunal has decided that it should make a PFEO in the terms originally proposed by it. The decision of the Tribunal is unanimous

Reasons for Decision

In the Tribunal's decision of 21st November 2017, it proposed to make a PFEO as follows:

"Within six weeks of the date of the communication of this correspondence to the Respondent, the Respondent must:

Draft and provide to each homeowner and the First-tier Tribunal a written statement of services taking cognisance of the requirements of the Code."

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 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."

The Tribunal's decision was intimated to the parties on 19th December 2017. A request for an extension to the period allowed for making representations, due to the holiday period, was requested by the Factor on 20th December 2017. The Tribunal granted the request for an extension and extended the period to 12th January 2018.

By email sent on 20th December 2017, The Homeowner indicated to the Tribunal her acceptance of the proposed terms of the PFEO. By email sent on 8th January 2018, the Factor's Director, Richard Burnett, indicated to the Tribunal the Factor's acceptance of the proposed terms of the PFEO.

The Tribunal confirmed its decision made on 21st November 2017 in terms of Section 19(1)(a) of the Act. The Tribunal agreed that it would be appropriate to make a PFEO.

Property Factor Enforcement Order

The First-tier Tribunal hereby makes the following PFEO:

Within six weeks of the date of the communication of this correspondence to the Respondent, the Respondent must Draft and provide to each homeowner and the First-tier Tribunal a written statement of services taking cognisance of the requirements of the Code.

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.

Right of Appeal

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.

Legal Member and Chairperson
30th January 2018