

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Decision in terms of Section 19 (2) of the Property Factors (Scotland) Act 2011 (“the Act”) in respect of a Proposed Property Factor Enforcement Order.

Reference number: FTS/HPC/LM/22/2043

Re: Property at 32, Linnet Drive, Kirkintilloch, G66 3DG (“the Property”)

The Parties:

Miss Cheryl Clark and Mr. Darren Cossar both residing at the Property (“the Homeowners”)

Residential Management Group Scotland Limited, Unit 6, 95, Morrison Street, Glasgow, G5 8BE (“the Property Factor”)

Tribunal Members

Karen Moore (Chairperson) and Elaine Munroe (Odinary Member)

Decision

The Tribunal determined not to make a Property Factor Enforcement Order.

Background

- Having determined by Decision dated 20 February 2023 that the Property Factor had failed to comply with the Section 14 duty and its Property Factor’s Duties in terms of the Act, and having determined to issue a Property Factor Enforcement Order (“PFEO”), the Tribunal gave Notice in accordance with Section 19(2)(a) of the Act that the Tribunal proposed the following PFEO and invited the Parties to make representations no later than 8 March 2023:-

“Proposed PFEO:

No later than [3 weeks from date of PFEO] the Property Factor must at its own cost and expense

- 1. Provide the Homeowners with a detailed statement to the date hereof showing all of the financial intromissions on their account;*
- 2. Provide the Homeowners and the Tribunal with evidence that its solicitors have been instructed to discharge the Notice of Potential Liability registered against title number DMB85581 without delay at the Property Factor's own cost, provide the Homeowners and the Tribunal with an estimated date for the discharge of the Notice of Potential Liability and thereafter, ensure that the Notice of Potential Liability is discharged by that estimated and provide confirmation of the discharge to the Homeowners and the Tribunal*
- 3. Compensate the Homeowners in the sum of TWO THOUSAND POUNDS STERLING (£2,000.00) for the inconvenience, worry, stress and time spent caused to them by the Property Factor's actions."*
4. Representations were made by both Parties to the effect that the Property Factor had taken action to comply with the terms of the Proposed PFEO.
5. Accordingly, there is no need for the Tribunal to make a PFEO.

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

Karen Moore

Chairperson

6 April 2023.

