

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/20/1855

Property address: 2F1 Chilton, Gracefield Court, Musselburgh, EH11 6LL (“the Property”)

The Parties

Ms Jane Calder, 2F1 Chilton, Gracefield Court, Musselburgh, EH22 6LL (“the Homeowner”)

Charles White Ltd., Citypoint, 65 Haymarket Terrace, Edinburgh, EH12 5HD (“the Factor”)

Tribunal Members

Ms H Forbes (Legal Member)

Mr J Blackwood (Ordinary Member)

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

1. In the Tribunal’s decision of 11th February 2021, it proposed to make a PFEO as follows:

“The Factor is required to:

1. Remove the charge of £164 in respect of the Texc Roofing charges from the Homeowner’s account; and
2. Pay to the Homeowner within 14 days of intimation to them of the PFEO the sum of £500 from their own funds to compensate the Homeowner for the distress, frustration and inconvenience caused as a result of the Factor’s failure to comply with the Code of Conduct

for Property Factors and the failure to carry out its property factor duties.”

2. The Tribunal indicated that, prior to making a PFEO, it would provide the parties with a period of fourteen days within which to make representations under section 19(2)(b) of the Act.
3. Neither party made representations on the terms of the PFEO.
4. By email dated 23rd February 2021, the Homeowner informed the Housing and Property Chamber that payment had been made in terms of the proposed PFEO on 16th and 18th February 2021.
5. The Tribunal has now confirmed its decision made 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:

The Factor is required to:

1. Remove the charge of £164 in respect of the Texc Roofing charges from the Homeowner’s account; and
2. Pay to the Homeowner within 14 days of intimation to them of the PFEO the sum of £500 from their own funds to compensate the Homeowner for the distress, frustration and inconvenience caused as a result of the Factor’s failure to comply with the Code of Conduct for Property Factors and the failure to carry out its property factor duties

If the PFEO has already been complied with, no further action will be required by the Factor.

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

1st March 2021