

# 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/20/0209**

**Flat 3, Downie Drive, Larkhall, ML9 2LJ (“the Property”)**

### **The Parties:-**

**Mr Henry Semple, 11 John Place, Heidelberg, Ontario, Canada (“the Homeowner”)**

**Miller Property Management, Suite 2.2, Waverley House, Caird Park, Hamilton, ML3 0QA (“the Factor”)**

### **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 22<sup>nd</sup> October 2020, it proposed to make a PFEO as follows:

“The Property Factor is required to:

- (i) Pay to the Homeowner within 21 days of intimation to them of the PFEO the sum of £100 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
- (ii) Issue a written apology to the Homeowner within 21 days of intimation to them of the PFEO for the failure to comply with the Code of Conduct for Property Factors.

A copy of the letter of apology must be provided to the First-tier Tribunal for Scotland (Housing and Property Chamber). ”

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. The decision was issued on 27<sup>th</sup> October 2020.
3. The Homeowner did not make any representations on the terms of the proposed PFEO.
4. By request received on 12<sup>th</sup> November 2020, the Factor requested a review of the decision.
5. An amended decision dated 30<sup>th</sup> November 2020 was issued. The prospective PFEO was not amended. The Tribunal's amended decision was intimated to the parties on 3<sup>rd</sup> December 2020.
6. 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 Property Factor is required to:

1. Pay to the Homeowner within 21 days of intimation to them of the PFEO the sum of £100 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
2. Issue a written apology to the Homeowner within 21 days of intimation to them of the PFEO for the failure to comply with the Code of Conduct for Property Factors.

A copy of the letter of apology must be provided to the First-tier Tribunal for Scotland (Housing and Property Chamber).

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

14<sup>th</sup> January 2021