

Housing and Property Chamber

First-tier Tribunal for Scotland



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

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

Chamber Ref: FTS/HPC/PF/20/1457

The Parties:-

Miss Carla McLay, 10/6 Kilnside Road, Paisley (“the Homeowner”)

Hacking and Paterson Management Services, 1 Newton Terrace, Glasgow, G3 7PL (“the Factor”)

The Tribunal:-

Melanie Barbour (Legal Member)

Angus Anderson (Ordinary Member)

This document should be read in conjunction with the First-tier Tribunal’s Decision of the same date.

The First-tier Tribunal proposes to make the following Property Factor Enforcement Order (“PFEO”):

Within a period of two months from the date of the PFEO the Factor must:

- (1) From their own funds credit the homeowner’s common charges account with the sum of £300.00;
- (2) Delete from the Homeowner’s account their management fee of £39.25 plus vat for the period 29/02/2020-28/05/2020;
- (3) Agree a repayment plan with the homeowner in relation to the common charges which accrued from April 2019 until May 2020; the terms of repayment schedule to be agreed shall permit (if required by the homeowner) a repayment period of up to 12 months.
- (4) Provide to the Tribunal written confirmation that items (1) and (2) have been completed.

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 intimation of the First-tier Tribunal's Decision and this proposed PFEO to the parties should be taken as notice for the purposes of section 19(2)(a) and parties are hereby given notice that they should ensure that any written representations which they wish to make under section 19(2)(b) reach the First-tier Tribunal by no later than 14 days after the date that the Decision and this proposed PFEO is sent to them by the First-tier Tribunal. If no representations are received within that timescale, then the First-tier Tribunal is likely to proceed to make a property factor enforcement order without seeking further representations from the parties.

Failure to comply with a PFEO has serious consequences and may constitute an offence.

Melanie Barbour

Legal Member and Chair

9 November 2020

Date