

Housing and Property Chamber

First-tier Tribunal for Scotland



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

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

Chamber Ref: FTS/HPC/PF/18/1366

Re: Flat 3/1, 242 Wilton Street, Glasgow, G20 6BJ (“the Property”)

The Parties:-

Mrs Helen York, 22A Kings Road, Longniddry, East Lothian, EH32 0NN (“the Homeowner”)

James Gibb, 65 Greendyke Street, Glasgow, G1 5PX (“the Factor”)

This document should be read in conjunction with the First-tier Tribunal’s Amended Statement of Decision dated 25th September 2018 and the Proposed Property Factor Enforcement Order (“PFOE”) dated 16th August 2018.

Decision

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

Reasons for Decision

In the Tribunal’s decision of 16th August 2018, it proposed to make a PFOE as follows:

“The Property Factor is required to pay to the Homeowner within 21 days of intimation to them of the PFOE the sum of £1000 from their own funds and at no cost to the development homeowners, in order to compensate the Homeowner for the distress, frustration and inconvenience caused as a result of the Factor’s failure to comply with the Property Factors Code of Conduct.”

The Tribunal indicated that, prior to making a PFOE, 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 Tribunal’s decision was intimated to the parties on 31st August 2018.

On 4th September 2018, the Homeowner emailed the Tribunal to request that three sentences from her oral evidence which contained information of a confidential nature be removed from the Tribunal's Statement of Decision.

The Factor did not make any representations.

The Tribunal confirmed its decision made on 16th August 2018 in terms of Section 19(1)(a) of the Act. The Tribunal agreed that it would be appropriate to remove the confidential information as requested by the Homeowner in terms of Rule 36 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017. 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 pay to the Homeowner within 21 days of intimation to them of the PFEO the sum of £1000 from their own funds and at no cost to the development homeowners, in order to compensate the Homeowner for the distress, frustration and inconvenience caused as a result of the Factor's failure to comply with the Property Factor Code of Conduct.

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.

Helen Forbes

Legal Member and Chairperson

25th September 2018