

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/19/0235

Flat 3/3, 103 Cambridge Street, Glasgow, G3 6RU (“The Property”)

The Parties:-

**Mr Allan Welsh, Flat 3/3, 103 Cambridge Street, Glasgow, G3 6RU
("the Homeowner")**

**James Gibb Property Management Ltd, 65 Greendyke Street,
Glasgow, G1 5PX
("the Property Factor")**

Tribunal Members:

Martin J. McAllister, Solicitor, (Legal Member)

Andrew McFarlane, Chartered Surveyor, (Ordinary Member)

(the “tribunal”)

This document should be read in conjunction with the First-tier Tribunal’s Decision of 24th October 2019 and the proposed property factor enforcement order dated 24th October 2019 which were both served on the parties on or around 31st October 2019.

In this decision the Property Factors (Scotland) Act 2011 is referred to as “the 2011 Act and the Property Factors (Scotland) Act 2011 Code of Conduct for Property Factors is referred to as “the Code.”

Decision

The tribunal has decided to make a property factor enforcement order (PFOE) in terms of its Decision and Notice of Proposed PFOE dated 24th October 2019. The decision of the Tribunal is unanimous.

Reasons for Decision

1. In the tribunal's decision of 24th October 2019 it proposed to make a PFEO as follows:
 - (i) **The Property Factor is required to follow its own debt recovery procedure as intimated to homeowners and set out in the document SUP/033 which has been lodged with the tribunal.**
 - (ii) **The Property Factor is to pay the sum of £4,476 to the Homeowner.**
2. The proposed PFEO was intimated to parties and neither made representations..
3. The Property Factor intimated that it had paid a cheque for £4.476 to the Homeowner and Mr Welsh confirmed to the Tribunal that he had received it.
4. The members of the tribunal considered matters and noted that neither party had submitted that a property factor enforcement order should not be made. The tribunal accepted that the Property Factor had paid the sum of £4,476 to the Homeowner.
5. The tribunal remained satisfied that the Property Factor had failed to comply with its duty under the Code. Accordingly under Section 19(3) of the 2011 Act the tribunal was required to make a PFEO.
6. The tribunal made the following PFEO:
 - (iii) **The Property Factor is required to follow its own debt recovery procedure as intimated to homeowners and set out in the document SUP/033 which has been lodged with the tribunal.**
 - (iv) **The Property Factor is to pay the sum of £4,476 to the Homeowner.**

Under Section 24(1) of the 2011 Act, a person who, without reasonable excuse, fails to comply with a property Failure to comply with a property factor enforcement order commits an offence.

Appeals

A homeowner or property factor 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.

Martin J. McAllister, Legal Member and Chair

16th December 2019