

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Decision in terms of Section 23(1) of the Property Factors (Scotland) Act 2011

Chamber Ref: FTS/HPC/PF/22/3985; FTS/HPC/PF/23/0884; FTS/HPC/PF/23/0885;
FTS/HPC/PF/23/0888; FTS/HPC/PF/23/0889; FTS/HPC/PF/23/0890;
FTS/HPC/PF/23/0891; and FTS/HPC/PF/23/1203

Property addresses: Property address: 28E, 30E, 28P, 28R, 30C, 30G, 30L, 30P
and 30Q Diriebught Road, Inverness, IV2 3QY

The Parties

Dr Robert Anderson
Mrs Lesley Leslie
Mrs Anita Bennis
Mr Jamie Stranraer-Mull
Mr Fred Kelly
Mr Malcolm Petrie
Mr Jeffrey Geary
Miss Mhairi Dalglish ("the Homeowners")

**First Port Property Services, Queensway House, 11 Queensway, New Milton,
Hampshire, BH25 5NR ("the Property Factor")**

Tribunal Members

Ms Helen Forbes (Legal Member)

Mr Mike Scott (Ordinary Member)

Decision

The Tribunal hereby determines that the Property Factor Enforcement Order ("PFEO") dated 9th October 2023 has not been complied with. The decision of the Tribunal is unanimous

Reasons for Decision

1. The Tribunal made a PFEO on 9th October 2023 in the following terms:

"Within 28 days of intimation to them of the PFEO, the Property Factor is required to:

1. Instruct an independent audit of the development account to ensure that the final account is accurate, the cost of the audit to be borne by the Property Factor;
 2. Pay to the Homeowners the sum of £100 each for the failure to comply with paragraph 3.1 of the Code of Conduct for Property Factors ("the Code");
 3. Pay to the Homeowner, Dr Anderson, an additional sum of £600 to compensate for the distress, frustration and inconvenience caused as a result of the Property Factor's failure to comply with the Code."
2. By email dated 16th November 2023, the Property Factor informed the Tribunal that they were in the process of complying with the PFEO in that an approach had been made to an independent auditor who had asked for further information, and that payment to the Homeowners was being processed. The Property Factor requested further guidance in respect of the audit. The Tribunal responded that no further guidance would be provided.
 3. By email dated 13th November 2023, the Homeowners' representative stated that the PFEO had not been complied with.
 4. By email dated 29th November 2023, the Property Factor confirmed that item 1 of the PFEO had been complied with.
 5. By email dated 8th December 2023, the Homeowners' representative stated that no payment to homeowners had been made.
 6. By email dated 12th December 2023, the Homeowners' email was circulated to the Property Factor with a request for comment on the matter of compliance. No response was received by the Tribunal.
 7. Accordingly, the Tribunal finds that the Property Factor has failed to comply with the PFEO in respect of points 2 and 3.

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
5th January 2024