

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/18/2154

**24D Inchinnan Court, Inchinnan Road, Paisley, PA3 2PA
 (“the Property”)**

The Parties:-

Miss Victoria Yuill, residing at the Property (“the Homeowner and Applicant”), represented by Mr Kevin Montgomery, Renfrewshire Citizen Advice Bureau, 7 Glasgow Road, Paisley

Apex Property Factor Limited, 46 Eastside, Kirkintilloch, East Dunbartonshire, G66 1QH (“the Factor and Respondent”)

Tribunal Members:-

Patricia Anne Pryce	-	Chairing and Legal Member
Elizabeth Dickson	-	Ordinary Member (Housing)

This document should be read in conjunction with the First-tier Tribunal’s Decision of 7 February 2019.

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

In the Tribunal’s decision of 7 February 2019, it proposed to make a PFEO as follows:

Within 28 days of the date of communication to the Respondent of the property factor enforcement order, the Respondent must:-

1. Re-calculate, and thereafter re-issue, all invoices issued to the Applicant by the Respondent since May 2012 until 21 May 2018, using the correct 1/61st share as stated in the titled deeds and to remove all entries relating to pro-formas.
2. Repay to the Applicant any sums due to the Applicant once Part 1 of the PFEO has been completed.
3. Pay to the Applicant the sum of £500.
4. Provide documentary evidence to the tribunal of the Respondent's compliance with the above Property Factor Enforcement Order by sending such evidence to the office of the First-tier Tribunal (Housing and Property Chamber) by recorded delivery post.

The Tribunal indicated that prior to making a property factor enforcement order, 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 by letter dated 20 February 2019.

The Tribunal received no further representations from either party.

The Tribunal therefore unanimously confirms its decision of 7 February 2019 that a PFEO should be made, as noted below.

Property Factor Enforcement Order

The First-tier Tribunal hereby makes the following PFEO:

Within 28 days of the date of communication to the Respondent of the property factor enforcement order, the Respondent must:-

1. Re-calculate, and thereafter re-issue, all invoices issued to the Applicant by the Respondent since May 2012 until 21 May 2018, using the correct 1/61st share as stated in the titled deeds and to remove all entries relating to pro-formas.
2. Repay to the Applicant any sums due to the Applicant once Part 1 of the PFEO has been completed.
3. Pay to the Applicant the sum of £500.
4. Provide documentary evidence to the tribunal of the Respondent's compliance with the above Property Factor Enforcement Order by sending such evidence to the office of the First-tier Tribunal (Housing and Property Chamber) by recorded delivery post.

Under Section 24(1) of the Property Factors (Scotland) Act 2011, a person who, without reasonable excuse, fails 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.

P Pryce

Patricia Anne Pryce
Legal Member and Chair

21 March 2019 _____ Date