



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

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

Reference number: FTS/HPC/PF/23/1370

Re: Property at 54D Sunnyside Road, Sunnyside Court, Coatbridge, ML5 3DG (“the Property”)

The Parties:

Mr Niall McDonnell, 54D Sunnyside Road, Sunnyside Court, Coatbridge, ML5 3DG (“the Applicant”)

Aquila Management Services, 98 High Street, Airdrie, ML6 0DX (“the Respondent”)

This document should be read in conjunction with the First-tier Tribunal’s Decision of 20th May 2024.

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 13th May 2024, it proposed to make a PFEO as follows:

Proposed PFEO:

No later than 4 weeks from date of PFEO the Property Factor must:

1. Pay the Applicant the sum of £150 in respect of the breach of paragraph 6.10 of the Code;
2. Redraft its WSS to correct the breaches of paragraphs 1.5 (6) and (21), 5.10 and 7.1, and issue the amended WSS to each Homeowner in the development.

The Tribunal’s decision was intimated to the parties on 29th May 2024

On 30th May 2024 the Applicant sent an email to the Tribunal proposing an amendment to the proposed PFEO in that the other Homeowners in the development should also receive a payment. The Tribunal considered the proposal but rejected it as it did not consider it to be within its jurisdiction to make such an order, and even if it could the penalty would be excessive.

No representations were received from the Respondent.

The Tribunal confirms the decision made on 13th May 2024.

Property Factor Enforcement Order

The First-tier Tribunal hereby makes the following PFEO:

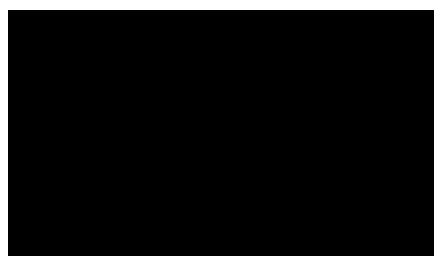
No later than 4 weeks from date of PFEO the Property Factor must:

3. Pay the Applicant the sum of £150 in respect of the breach of paragraph 6.10 of the Code;
4. Redraft its WSS to correct the breaches of paragraphs 1.5 (6) and (21), 5.10 and 7.1, and issue the amended WSS to each Homeowner in the development.

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.

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.



18th June 2024