

Housing and Property Chamber

First-tier Tribunal for Scotland



Failure to comply decision in relation to a Property Factor Enforcement Order in terms of Section 19 (3) of the Property Factors (Scotland) Act 2011

Chamber Ref: FTS/HPC/PF/22/3836

Property: Flat 3/2 664 Alexandra Parade, Glasgow G31
3LH (“the property”)

The Parties:- Easilet Investments Limited, 104 Bellgrove Street, Glasgow, G31 1AA (“the homeowner”)

Cumming Turner & Watt, 40 Carlton Place, Glasgow, G5 9TS (“the property factors”)

Tribunal Members: Mr Mark Thorley (Legal Member)

Mr Andrew McFarlane (Ordinary Member)

Decision of the tribunal

The tribunal determined that the property factors have failed to comply with the terms of the Property Factor Enforcement Order made on 9 January 2024 and that Notice of Failure should be served on the Scottish Ministers.

Reasons for Decision

1. Following a hearing, the tribunal determined on 17 November 2023 that the property factor failed to comply with the property factor duties and proposed to make a Property Factor Enforcement Order requiring the property factor to undertake the following:
 - i. to complete rot works requiring the roof of the property within a period of 28 days;
 - ii. to provide an accounting for the funds obtained in respect of the roof works, within a period of 28 days;

- iii. to make a payment to the homeowner for the inconvenience suffered for the sum of £1,000, with no costs to the owners, said sums to be paid within 28 days of the communication to that effect.
2. The Property Factor Enforcement Order was made on 9 January 2024.
 3. The homeowner confirmed that the order had not been complied with. The property factor responded on 21 October 2024 intimating that they had not received a copy of the tribunal decision. They did acknowledge that the work had not been undertaken.
 4. The tribunal decided, therefore, that the property factors had failed to comply with the Property Factor Enforcement Order and that in terms of Section 23 of the Property Factors (Scotland) Act 2011, notice of that failure should be served on the Scottish Ministers.
 5. The Tribunal's decision was unanimous.

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.

Mr Mark Thorley

Chairperson

25 February 2025

Date