

Housing and Property Chamber

First-tier Tribunal for Scotland



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

**Proposal regarding the making of a Property Factor Enforcement Order:
Property Factors (Scotland) Act 2011 Section 19(2)**

Chamber Reference: FTS/HPC/PF/22/0721 & FTS/HPC/PF/22/1317

Property address: 54 Eden Court, Cupar, Fife, KY15 5US (“the Property”)

The Parties

Mrs Margaret Smith, 54 Eden Court, Cupar, Fife, KY15 5US (“the Homeowner”)

First Port Property Services, 199 St Vincent Street, Glasgow, G2 5QD (“the Property Factor”)

Tribunal Members

Ms H Forbes (Legal Member)

Mrs E Dickson (Ordinary Member)

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

1. In the Tribunal’s decision of 12th September 2022, it proposed to make a PFEO as follows:

“The Property Factor is required to pay to the Homeowner within 14 days of intimation to them of the PFEO the sum of £400 from their own funds to compensate the Homeowner for the distress, frustration and inconvenience caused as a result of the Property Factor’s failure to comply with the Codes of Conduct for Property Factors.”

2. The Tribunal indicated that, prior to making a PFEO, 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 decision was issued on 3rd October 2022. No representations have been made by parties.

3. The Tribunal has now confirmed its decision made in terms of Section 19(1)(a) of the Act. The Tribunal agreed that it would be appropriate to make a PFEO.

Property Factor Enforcement Order

4. The First-tier Tribunal hereby makes the following PFEO:
The Property Factor is required to pay to the Homeowner within 14 days of intimation to them of the PFEO the sum of £400 from their own funds to compensate the Homeowner for the distress, frustration and inconvenience caused as a result of the Property Factor's failure to comply with the Codes of Conduct for Property Factors.

Failure to comply with a PFEO may have serious consequences and may constitute an offence.

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.

Legal Member and Chairperson
27th October 2022