



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

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

Chamber Ref: FTS/HPC/PF/19/3596

Re: Property at 131 Polmuir Road, Aberdeen, AB11 7SJ (“the Property”)

The Parties:

Mrs Elizabeth Doyle, 37 Polmuir Gardens, Aberdeen, AB11 7WE (“the Homeowner”)

James Gibb Residential Factors, 2 Thistle Street, Aberdeen, AB10 1XZ (“the Property Factor”)

Tribunal Members:

Neil Kinnear (Legal Member) and Mike Scott (Ordinary Member)

DECISION

[1] The Tribunal has decided that it should make a Property Factor Enforcement Order (“PFEO”) in the terms originally proposed by it. The decision of the Tribunal is unanimous.

[2] The Tribunal proposed to make the following PFEO in its notice of proposal dated 29th December 2021:

“Within 28 days of intimation of the PFEO, the Property Factor must make payment to the Homeowner of the sum of £250.00 in respect of the Property Factor’s failure to carry out its property factor duties and its failure to comply with Section 2.5, 3.1, 3.2, 3.3, 3.4, 4.6 and 4.7 of the Code of Conduct for Property Factors in compensation to reflect the anxiety and distress caused to the Homeowner by the Property Factor’s said failure and in respect of the Homeowner’s time and inconvenience in dealing with the complaints process and Tribunal proceedings.”

[3] 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.

[4] Neither the Homeowner nor the Property Factor made representations under section 19(2)(b) of the Act.

[5] The Tribunal has now confirmed its decision made in terms of section 19(1)(a) of the Act, and it is appropriate that it makes a PFEO.

[7] The Tribunal hereby makes the following PFEO:

“Within 28 days of intimation of the PFEO, the Property Factor must make payment to the Homeowner of the sum of £250.00 in respect of the Property Factor’s failure to carry out its property factor duties and its failure to comply with Section 2.5, 3.1, 3.2, 3.3, 3.4, 4.6 and 4.7 of the Code of Conduct for Property Factors in compensation to reflect the anxiety and distress caused to the Homeowner by the Property Factor’s said failure and in respect of the Homeowner’s time and inconvenience in dealing with the complaints process and Tribunal proceedings. 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 Tribunal (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.

Neil Kinnear 09/03/2022
Legal Member **Date**



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

Proposed Property Factor Enforcement Order: Section 19(3) of the Property Factors (Scotland) Act 2011 ("the Act")

Chamber Ref: FTS/HPC/PF/19/3599

Re: Property at 109 Polmuir Road, Aberdeen, AB11 7SJ ("the Property")

The Parties:

Mr James Thomson, 4 Carolines Crescent, Ellon, AB41 8BN ("the Homeowner")

James Gibb Residential Factors, 2 Thistle Street, Aberdeen, AB10 1XZ ("the Property Factor")

Tribunal Members:

Neil Kinnear (Legal Member) and Mike Scott (Ordinary Member)

DECISION

[1] The Tribunal has decided that it should make a Property Factor Enforcement Order ("PFEO") in the terms originally proposed by it. The decision of the Tribunal is unanimous.

[2] The Tribunal proposed to make the following PFEO in its notice of proposal dated 29th December 2021:

"Within 28 days of intimation of the PFEO, the Property Factor must make payment to the Homeowner of the sum of £250.00 in respect of the Property Factor's failure to carry out its property factor duties and its failure to comply with Section 2.5, 3.1, 3.2, 3.3, 3.4, 4.6 and 4.7 of the Code of Conduct for Property Factors in compensation to reflect the anxiety and distress caused to the Homeowner by the Property Factor's said failure and in respect of the Homeowner's time and inconvenience in dealing with the complaints process and Tribunal proceedings."

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[4] Neither the Homeowner nor the Property Factor made representations under section 19(2)(b) of the Act.

[5] The Tribunal has now confirmed its decision made in terms of section 19(1)(a) of the Act, and it is appropriate that it makes a PFO.

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“Within 28 days of intimation of the PFEO, the Property Factor must make payment to the Homeowner of the sum of £250.00 in respect of the Property Factor’s failure to carry out its property factor duties and its failure to comply with Section 2.5, 3.1, 3.2, 3.3, 3.4, 4.6 and 4.7 of the Code of Conduct for Property Factors in compensation to reflect the anxiety and distress caused to the Homeowner by the Property Factor’s said failure and in respect of the Homeowner’s time and inconvenience in dealing with the complaints process and Tribunal proceedings. Failure to comply with a PFEO may have serious consequences and may constitute an offence.”

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Neil Kinnear
Legal Member

09/03/2022
Date



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

Proposed Property Factor Enforcement Order: Section 19(3) of the Property Factors (Scotland) Act 2011 ("the Act")

Chamber Ref: FTS/HPC/PF/19/3609

Re: Property at 103 Polmuir Road, Aberdeen, AB11 7SJ ("the Property")

The Parties:

Miss Claire Forsyth, 103 Polmuir Road, Aberdeen, AB11 7SJ ("the Homeowner")

James Gibb Residential Factors, 2 Thistle Street, Aberdeen, AB10 1XZ ("the Property Factor")

Tribunal Members:

Neil Kinnear (Legal Member) and Mike Scott (Ordinary Member)

DECISION

[1] The Tribunal has decided that it should make a Property Factor Enforcement Order ("PFEO") in the terms originally proposed by it. The decision of the Tribunal is unanimous.

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Neil Kinnear
Legal Member

09/03/2022
Date



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

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

Chamber Ref: FTS/HPC/PF/19/3620

Re: Property at 115 Polmuir Road, Aberdeen, AB11 7SJ (“the Property”)

The Parties:

Mr Garry Cruickshank, 115 Polmuir Road, Aberdeen, AB11 7SJ (“the Homeowner”)

James Gibb Residential Factors, 2 Thistle Street, Aberdeen, AB10 1XZ (“the Property Factor”)

Tribunal Members:

Neil Kinnear (Legal Member) and Mike Scott (Ordinary Member)

DECISION

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Neil Kinnear 09/03/2022
Legal Member **Date**



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

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

Chamber Ref: FTS/HPC/PF/19/3713

Re: Property at 129 Polmuir Road, Aberdeen, AB11 7SJ (“the Property”)

The Parties:

Mr James Brown, Mrs Margaret Brown, 129 Polmuir Road, Aberdeen, AB11 7SJ (“the Homeowner”)

James Gibb Residential Factors, 2 Thistle Street, Aberdeen, AB10 1XZ (“the Property Factor”)

Tribunal Members:

Neil Kinnear (Legal Member) and Mike Scott (Ordinary Member)

DECISION

[1] The Tribunal has decided that it should make a Property Factor Enforcement Order (“PFEO”) in the terms originally proposed by it. The decision of the Tribunal is unanimous.

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Neil Kinnear 09/03/2022
Legal Member **Date**



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

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

Chamber Ref: FTS/HPC/PF/19/3739

Re: Property at 105 Polmuir Road, Aberdeen, AB11 7SJ (“the Property”)

The Parties:

Dr Fiona-Jane Brown, 105 Polmuir Road, Aberdeen, AB11 7SJ (“the Homeowner”)

James Gibb Residential Factors, 2 Thistle Street, Aberdeen, AB10 1XZ (“the Property Factor”)

Tribunal Members:

Neil Kinnear (Legal Member) and Mike Scott (Ordinary Member)

DECISION

[1] The Tribunal has decided that it should make a Property Factor Enforcement Order (“PFEO”) in the terms originally proposed by it. The decision of the Tribunal is unanimous.

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