

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Property Factor Enforcement Order ("PFEQ"): Property Factors (Scotland) Act 2011 Section 19(3)

Chamber Ref: FTS/HPC/PF/17/0367

Re: 4 The Park, Victoria House, Forres, IV36 3AH ("the Property")

The Parties:-

Mr Ricardo Petrocelli and Ms Elizabeth Bruce, The Park, Victoria House, Forres, IV36 3AH ("the Homeowner")

James Gibb Property Management Ltd., 1 Thistle Street, Aberdeen, AB10 1XZ ("the Factor")

Tribunal Members

Helen Forbes (Legal Member)

Angus Anderson (Ordinary Member)

This document should be read in conjunction with the First-tier Tribunal's Decision of 22nd January 2018.

Decision

The Tribunal has decided that it should make a PFEQ in the terms originally proposed by it. The decision of the Tribunal is unanimous

Reasons for Decision

In the Tribunal's decision of 22nd January 2018, it proposed to make a PFEQ as follows:

"James Gibb Residential Factors are directed to:

1. pay to the Homeowner £500 as compensation from their own funds and at no cost to the development homeowners. The said sum to be paid within 28 days of the communication to them of the Property Factor Enforcement Order.

2. in relation to the selection of the insurance provider in May, 2016 (this being the information used as the basis of the renewal of the insurance in May, 2017), to provide the Homeowner with details of the insurance premiums and cover of each of the alternative quotes obtained and advise if a price/quality selection matrix was used, and, if so, what the weightings and quality criteria were. Commercially sensitive information which cannot be divulged may be anonymised by substituting names with A, B, C, etc. The said information is to be provided within 28 days of the communication to them of the Property Factor Enforcement Order.'

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 Tribunal's decision was intimated to the parties on 14th February 2018.

On 23rd February 2018, the Factor made an application for a review of the decision.

On 12th March 2018, the Homeowner responded to the Factor's application for a review of the decision.

The Tribunal considered that the Factor's application for review was wholly without merit, and the decision of the Tribunal in this regard was issued on 23rd March 2018.

The Tribunal confirmed its decision made on 22nd January 2018 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

The First-tier Tribunal hereby makes the following PFEO:

James Gibb Residential Factors are directed to:

1. pay to the Homeowner £500 as compensation from their own funds and at no cost to the development homeowners. The said sum to be paid within 28 days of the communication to them of the Property Factor Enforcement Order.
2. in relation to the selection of the insurance provider in May, 2016 (this being the information used as the basis of the renewal of the insurance in May, 2017), to provide the Homeowner with details of the insurance premiums and cover of each of the alternative quotes obtained and advise if a price/quality selection matrix was used, and, if so, what the weightings and quality criteria were. Commercially sensitive information which cannot be divulged may be anonymised by substituting names with A, B, C, etc. The said information is to be provided within 28 days of the communication to them of the Property Factor Enforcement Order.

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.

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.

H Forbes

Legal Member and Chairperson

6th April 2018