

Housing and Property Chamber

First-tier Tribunal for Scotland



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

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

Chamber Ref: FTS/HPC/PF/17/0127

18 Silvertrees Wynd, Bothwell, Glasgow, G71 8FH (“The Property”)

The Parties: -

Mrs Caroline Adams, 18 Silvertrees Wynd, Bothwell, Glasgow, G71 8FH (“the Applicant”)

Miller Property Management Ltd, 27 Bothwell Road, Hamilton ML3 0AS (“the Respondent”)

Tribunal Members:

Josephine Bonnar (Legal Member)

Mary Lyden (Ordinary Member)

This document should be read in conjunction with the First-tier Tribunal’s Decision of 17 June 2017.

Decision

The Tribunal has decided that it should make a PFOE in the terms originally proposed by it.

The decision of the Tribunal is unanimous.

Reasons for decision

In the Tribunal’s decision of 17 June 2017, it proposed to make a PFOE as follows

- (1) The Tribunal order the Respondent to pay to the Applicant the sum of £75 as compensation for her time, effort and inconvenience within 28 days of intimation of the Property Factor Enforcement Order.

The Tribunal indicated that prior to making a property factor enforcement order, 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 20 June 2017.

On 3 July 2017 the Respondent made a request for a review. On 15 August 2017 the Respondent confirmed that this had been intimated to the other party. On 16 August the Applicant submitted representations in relation to the request. On 11 September 2017 the Respondent lodged further representations. On 3 November 2017 the Tribunal issued a decision refusing the application for review. This was intimated to parties on 8 November 2017. Neither party has lodged representations in relation to the proposed PFEO.

The Tribunal is satisfied that the Respondent has failed to comply with its duties under section 14(5) of the Property Factors (Scotland) Act 2011 in that it did not comply with sections 2.1 and 3 of the Code of Conduct. The Tribunal notes that neither party has made any representations in relation to the proposed PFEO. The Tribunal is satisfied as to the terms of the proposed PFEO and that no amendment is required.

Property Factor Enforcement Order

The First-tier Tribunal hereby makes the following PFEO:

- (1) The Tribunal order the Respondent to pay to the Applicant the sum of £75 as compensation for her time, effort and inconvenience within 28 days of intimation 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.

Appeals

A homeowner or property factor aggrieved by a 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.

› Joséphine Bonnar,
Legal Member

18 November 2017