

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Certificate of Compliance with the Property Factor Enforcement Order (“PFEO”) dated 4 April 2024

Chamber Refs: FTS/HPC/PF/22/3674

28 Chancellor House, 4 Parsonage Square, Glasgow, G4 0TH (“the Property”)

Parties:

Myah Guild, 28 Chancellor House, 4 Parsonage Square, Glasgow, G4 0TH (“the Homeowner”)

Ross & Liddell, 60 St Enoch Square, Glasgow, G1 4AW (“the Property Factor”)

Tribunal Members:

Josephine Bonnar (Legal Member) and Mary Lyden (Ordinary Member)

Decision

The Tribunal, having determined that the PFEO dated 4 April 2024 relating to the property has been complied with, certifies that the Property Factor has complied with the PFEO.

The decision of the Tribunal is unanimous.

Reasons for decision

In the Tribunal’s decision of 26 January 2024, it made a PFEO in the following terms:

- (1) The Tribunal order the Property Factor to provide the Homeowner with a letter of apology for their failure to comply with Sections 2.1 and 2.7 of the Code, and
- (2) The Tribunal order the Property Factor to pay to the Homeowner the sum of £100 for her time, effort, and inconvenience.

On 26 January 2024, the Tribunal issued a written decision with statement of reasons and a proposed PFEO. The Parties lodged representations regarding the proposed PFEO. The Property Factor also submitted a copy of a letter of apology to the Homeowner, a copy of a cheque payable to the Homeowner in the sum of £100 and a statement showing both a debit and credit of £100 on the Homeowner’s

factoring account. The Homeowner referred to both the payment and the apology in her submissions but initially indicated that the £100 had been credited to her account and not paid. In response to a further enquiry from the Tribunal, the Homeowner did not respond. The Property Factor stated that the documents submitted established that the sum had been paid to the Homeowner and not credited to her account. The statement and copy cheque were evidence of this.

Section 19(3) of the Property Factor (Scotland) Act 2011 states, “If the First-tier Tribunal for Scotland is satisfied, after taking account of any representations made under subsection (2)(b), that the Property Factor has failed to carry out the property factor’s duties or, as the case may be, to comply with the section 14 duty. **The First-tier Tribunal must make a property factor enforcement order.”**

Having considered the written representations lodged by the parties, the Tribunal determined that a PFEO “must” be issued in terms of Section 19(3). The Tribunal also concluded that it should be in the same terms as the proposed PFEO. However, having considered the terms of the Property Factor’s submissions, which were not disputed by the Homeowner, the Tribunal is satisfied that the Property Factor has already issued a letter of apology and paid the Homeowner the sum of £100.

In the circumstances, the Tribunal is satisfied that the property Factor has complied with the PFEO and that a certificate to that effect should be issued.

The Tribunal determines that the Property factor has complied with the PFEO.

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.