

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Notice of Revocation under Section 21(1)(b) of the Property Factors (Scotland) Act 2011 ("the 2011 Act")

Chamber Ref: FTS/HPC/PF/18/1789 AND FTS/HPC/PF/18/1791

**Flat 2/1 6 Ratho Drive, Springburn, Glasgow G21 1NA and Flat 1/2, 14 Memel Street, Springburn, Glasgow G21 1LL
("the Property")**

The Parties:-

**Ms Fiona Taylor, 57F Drumbathie Mansions, Drumbathie Road, Airdrie ML6 6EW
("the Homeowner")**

**James Gibb Residential Factors, 65 Greenbank Street, Glasgow G1 5PX
("the Factor")**

Tribunal Members:

**Graham Harding (Legal Member)
Mary Lyden (Ordinary Member)**

Decision

The Tribunal has decided to revoke the Property Factor Enforcement Order ("PFOE") relating to the property dated 19 March 2019.

The decision is unanimous.

Reasons

1. In its decision issued on 10 January 2019 the Tribunal proposed to make a Property Factor Enforcement Order in the following terms:-

Within 30 days of intimation of the PFOE the Factor must:

- (1) credit the Homeowner's account with the Factor with the sum of £203.03 being reimbursement of all late payment fees and charges contained in the Homeowners application to the Tribunal dated 19 July 2018 and provide documentary evidence of same to the Tribunal.

2. The Tribunal issued a Notice of Proposed PFEO together with the decision on 10 January 2019 and invited representations within 14 days of the Notice being received by the parties.
3. By application dated 15 January 2019 the Homeowner requested permission to appeal the decision of the Tribunal. The Tribunal considered the Homeowners request and by its decision dated 29 January 2019 refused permission to appeal.
4. By email dated 12 February the Factor advised the Tribunal that the credits to the Homeowners accounts would be applied on 28 February 2019 and issued to the Homeowner by invoices around 6 March 2109.
5. By email received on 25 March 2019 the Factor advised the Tribunal that the credits to the Homeowners accounts as instructed by the Tribunal had been made in accordance with the proposed PFEO.
6. The Homeowner did not respond to a request from the Tribunal to confirm that payment had been received.
7. The Tribunal having considered matters took the view that whilst Section 19 (3) of the 2011 Act required the Tribunal to make a PFEO given that the terms of the PFEO had already been complied with it was no longer necessary and therefore exercised its discretion in terms of Section 21(1)(b) of the 2011 Act to revoke the PFEO and bring the proceedings to an end.

Right of Appeal

8. 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 within 30 days of the date the decision was sent to them.

 Graham Harding

Legal Member and Chairperson

19 March 2019