

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Decision in terms of Section 23(1) of the Property Factors (Scotland) Act 2011

Chamber Ref: FTS/HPC/PF/20/2674

The Property: Flat 2/2, 336 Cumbernauld Road, Glasgow, G31 3LZ (“The Property”)

The Parties:-

**Ridhouan Ahankour, residing at Flat 2/2, 336 Cumbernauld Road, Glasgow, G31 3LZ
 (“the applicant”)**

**W. M. Cumming, Turner & Watt, property managers, 40 Carlton Place, Glasgow, G5 9TS
 (“The property factor”)**

Committee Members

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| Paul Doyle | Legal Member |
| Ahsan Khan | Ordinary Member |

Decision

The Tribunal hereby determines that:

- (i) The Property Factor Enforcement Order (“PFEO”) dated 7 April 2021 has not been complied with;
- (ii) A Notice of Failure to comply is to be served on the Scottish Ministers in terms of section 23(2) of the Act; and
- (iii) The Property Factor’s failure to comply is to be reported to the police for prosecution of the Property Factor in terms of section 24 of the Act.

The decision of the Tribunal is unanimous.

Reasons for Decision

1. By decision dated 7 April 2021, the First-tier Tribunal (Housing and Property Chamber) ("the Tribunal") determined that the Property Factor had failed to comply with the Section 14 duty in terms of the Property Factors (Scotland) Act 2011 ("the Act") by breaching sections 2.1, section 2.5, section 7.1, section 7.2 and section 7.4 of the Property Factor Code of Conduct ("the Code") as required by section 14(5) of the Act, and that that the property factor failed to carry out the property factors duties.

2. The Tribunal made a PFEO dated 26 April 2021 requiring the Property Factor to:

Within 28 days of the date of service on the respondent of this property factor enforcement order the respondent must pay the applicant £620.00 representing the property factors management fee for 2020 together with a financial penalty for breaching the code of conduct and failing in the property factors duties.

3. By email dated 2 June 2021, the Homeowner informed the Tribunal that no action had been taken by the Property Factor to comply with the PFEO.

4. No representations were received from the Property Factor.

5. Accordingly, the Tribunal finds that the Property Factor has failed to comply with the PFEO and that there is no reasonable excuse for the failure.

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.

Legal Member and Chairperson

14 June 2021