



Property Factor Enforcement Order

Decision by a Committee of the Homeowner Housing Panel in respect of an application under section 17 of the Property Factors (Scotland) Act 2011 ("the Act") and issued under the Homeowner Housing Panel (Applications and Decisions) (Scotland) Regulations 2012

hohp Ref: HOHP/PF/15/0110

Property:- 16 Eastside, Flat 1/2, Kirkintilloch, Glasgow G66 1PY ("the Property")

The Parties:-

Mr. Brendan Campbell and Mrs. Margaret Campbell, 98, Loch Road, Kirkintilloch, Glasgow G66 3EA ("the Homeowner")

Apex Property Factor Ltd., having a place of business at 46, Eastside, Kirkintilloch, Glasgow G66 1QH ("the Factor") hereinafter together referred to as "the parties"

Committee Members

Karen Moore (Chairperson)

David Godfrey (Surveyor Member)

This Notice should be read in conjunction with the Committee's Decision of 1 May 2106
under reference HOHP/PF/15/0110

1. By decision of 1 May 2016, the Committee determined that the Factor had breached its duties in terms of section 17(1)(b) of the 2011 Act in that it had failed to comply with Sections 4.6, 4.7 and 7.1 of the Code of Conduct for Property Factors as required by s 14(5) of that Act.
2. In accordance with s 19(3) of the 2011 Act, having been satisfied that the Factor has failed to carry out the property factor duties, the Committee required to make a Property Factor Enforcement Order ("PFEO"). In compliance with section 19(2) of the Act and gave notice of the following proposed PFEO to the factor and to allow the parties an opportunity to give representations to the Committee. :-

No later than 31 May 2016, the Factor must:

1. *Make payment to the Homeowner of the sum of £250 in recognition of the time spent, distress and inconvenience that the Factors' breaches of the Code have caused to the Homeowner;*
2. *Cancel the final invoice of 27 February 2015 and provide notification of that to the Homeowner;*
3. *Issue a replacement final invoice to the Homeowner showing a final sum due to them being the reimbursement of their float of £50 under deduction of the sum of £22.20 being due in respect of all factoring services provided and outstanding as at 27 February 2015 and make further payment to the Homeowner of any sum due;*
4. *At its own expense, register a Discharge of the Notice of Potential Liability registered against the Homeowner's Property and*

5. Provide to the Homeowner Housing Panel documentary evidence of compliance with the above Orders.
3. The factor responded by letter dated 23 May 2016. The Committee had regard to the factor's response but considered that no new matters were raised by the factor and that no representations had been made by the factor in respect of the terms of the proposed PFEO. Accordingly the Committee determined to make a PFEO in the same terms as those proposed, save that the time limit for compliance be amended to 15 July 2016 and the sum due by the Homeowner to the factor be amended from £22.20 to £25.54, being the correct sum due in this respect.
4. Therefore, the Committee determined to make the following PFEO:-
No later than 15 July 2016, the Factor must:
 - i) Make payment to the Homeowner of the sum of £250 in recognition of the time spent, distress and inconvenience that the Factors' breaches of the Code have caused to the Homeowner;
 - ii) Cancel the final invoice of 27 February 2015 and provide notification of that to the Homeowner;
 - iii) Issue a replacement final invoice to the Homeowner showing a final sum due to them being the reimbursement of their float of £50 under deduction of the sum of £25.54 being due in respect of all factoring services provided and outstanding as at 27 February 2015 and make further payment to the Homeowner of any sum due;
 - iv) At its own expense, register a Discharge of the Notice of Potential Liability registered against the Homeowner's Property and
 - v) Provide to the Homeowner Housing Panel documentary evidence of compliance with the above Orders.

Appeals

The parties' attention is drawn to the terms of s 22 of the 2011 Act regarding their right to appeal and the time limit for doing so. It provides "(1) An appeal on a point of law only may be made by summary application to the Sheriff against a decision of the president of the Homeowner Housing Panel or a Homeowner Housing Committee; (2) An appeal under subsection (1) must be made within the period of 21 days beginning with the date on which the decision appealed against is made..."

Karen Moore
Chairperson

20 June 2016