

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/23/2978

Property address: 5 Wallfield Place, First Floor Left, Aberdeen, AB25 2JS (“the Property”)

The Parties

Mrs Bea Hawkes, 5 Wallfield Place, First Floor Left, Aberdeen, AB25 2JS (“the Homeowner”)

Newton Property Management Limited, 87 Port Dundas Road, Glasgow, G4 0HF (“the Property Factor”)

Tribunal Members

Ms H Forbes (Legal Member) and Mrs S Brydon (Ordinary Member)

Decision

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

Reasons for Decision

1. In the Tribunal’s decision of 1st July 2024, it proposed to make a PFOE as follows:

“The Property Factor is required to carry out the following within 21 days of issue of the PFOE:

- (i) Remove or correct their response to the Trustpilot review. If the Property Factor chooses to correct the response, they should ensure that the correct timescales in relation to the matter of the lock issues and the break-in are reflected.
- (ii) Arrange a programme of training for relevant staff to ensure they carry out the services provided to homeowners using reasonable care and skill

and in a timely way. If this training has already been provided, the Property Factor must lodge evidence of this.

- (iii) Pay to the Homeowner within 14 days of intimation to them of the PFEO the sum of £250 from their own funds to compensate the Homeowner for the distress, frustration and inconvenience caused as a result of the Property Factor's failure to comply with the Code of Conduct for Property Factors."
- 2. The Tribunal indicated that, prior to making a PFEO, 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 decision was issued on 2nd July 2024.
- 3. Neither party made representations under section 19(2)(b) of the Act.
- 4. The Property Factor made representations by emails dated 26th July and 20th August 2024 which suggest they have acted upon the proposed PFEO by carrying out the required actions.
- 5. On 21st August 2024, the Homeowner confirmed that payment had been made as a result of the proposed PFEO.
- 6. The Tribunal has now confirmed its decision made in terms of Section 19(1)(a) of the Act. The Tribunal agrees that it would be appropriate to make a PFEO.

Property Factor Enforcement Order

- 7. The First-tier Tribunal hereby makes the following PFEO:

The Property Factor is required to carry out the following within 21 days of issue of the PFEO:

- (i) Remove or correct their response to the Trustpilot review. If the Property Factor chooses to correct the response, they should ensure that the correct timescales in relation to the matter of the lock issues and the break-in are reflected.
- (ii) Arrange a programme of training for relevant staff to ensure they carry out the services provided to homeowners using reasonable care and skill and in a timely way. If this training has already been provided, the Property Factor must lodge evidence of this.
- (iii) Pay to the Homeowner within 14 days of intimation to them of the PFEO the sum of £250 from their own funds to compensate the Homeowner for the distress, frustration and inconvenience caused as a result of the Property Factor's failure to comply with the Code of Conduct for Property Factors.

8. Under section 24 (1) of the Act, a person who, without reasonable excuse, fails to comply with the Property Factory Enforcement Order commits an offence.

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
2nd September 2024