



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

Property Factor Enforcement Order: Section 19(3) of the Property Factors (Scotland) Act 2011 (“the Act”)

Chamber Ref: FTS/HPC/PF/22/2829 & FTS/HPC/PF/22/3767

Re: Property at 48 Patriothall, Edinburgh EH3 5AY (“the Property”)

Parties:

Mrs Caroline Brown, 48 Patriothall, Edinburgh EH3 5AY (“the Homeowner”)

James Gibb Residential Factors, 4 Atholl Place, Edinburgh EH3 8HT (“the Property Factor”)

Tribunal Members:

Neil Kinnear (Legal Member) and Kingsley Bruce (Ordinary Member)

DECISION

[1] The Tribunal has decided that it should make a Property Factor Enforcement Order (“PFEO”) in the terms originally proposed by it. The decision of the Tribunal is unanimous.

[2] The Tribunal proposed to make the following PFEO in its notice of proposal dated 6th April 2023:

“Within 28 days of intimation of the PFEO, the Property Factor must make payment to the Homeowner of the sum of £750.00 in compensation in respect of the Property Factor’s failure to comply with sections 2.1, 2.5 and 6.1 of the Code of Conduct for Property Factors (effective from 1 October 2012) and sections 2.1, 2.7, 6.4 and 7.1 of the Code of Conduct for Property Factors (effective from 16 August 2021) as required by section 14(5) of the *Property Factors (Scotland) Act 2011*.”

[3] 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.

[4] Neither the Homeowner nor the Property Factor made representations under section 19(2)(b) of the Act.

[5] The Tribunal has now confirmed its decision made in terms of section 19(1)(a) of the Act, and it is appropriate that it makes a PFEO.

[6] The Tribunal hereby makes the following PFEO:

“Within 28 days of intimation of the PFEO, the Property Factor must make payment to the Homeowner of the sum of £750.00 in compensation in respect of the Property Factor’s failure to comply with sections 2.1, 2.5 and 6.1 of the Code of Conduct for Property Factors (effective from 1 October 2012) and sections 2.1, 2.7, 6.4 and 7.1 of the Code of Conduct for Property Factors (effective from 16 August 2021) as required by section 14(5) of the *Property Factors (Scotland) Act 2011*. Failure to comply with a PFEO may have serious consequences and may constitute an offence.”

Right of Appeal

In terms of Section 46 of the Tribunal (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.

18 May 2023

Legal Member

Date