



## **Decision: Property Factors (Scotland) Act 2011: Section 19(3)**

**Chamber Ref: FTS/HPC/PF/19/3291**

**127 Main Street, Bellshill, ML4 3DZ ("The Property")**

### **The Parties:-**

**Miss Susan Mynehan, 127 Main Street, Bellshill, ML4 3DZ  
("the Homeowner")**

**W.M.Cumming, Turner and Watt, Property Managers, 40 Carlton Place, Glasgow,  
G5 9TS  
("the Property Factor")**

### **Tribunal Members:**

**Martin J. McAllister, Solicitor, (Legal Member)  
Robert Buchan, Chartered Surveyor, (Ordinary Member)  
(the "tribunal")**

## **Introduction**

In this decision the Property Factors (Scotland) Act 2011 is referred to as "the Act"; the Property Factors (Scotland) Act 2011 Code of Conduct for Property Factors is referred to as "the Code"; the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 are referred to as "the Rules" and the First-tier Tribunal for Scotland (Housing and Property Chamber) is referred to as "the Tribunal."

## **Decision**

**It was determined that the property factor had not complied with Section 2.5 of the Code and that a proposed Property Factor Enforcement Order be issued.**

## **Background**

The application dated 13<sup>th</sup> October 2019 and received by the Tribunal on 14<sup>th</sup> October 2019 was made by the Homeowner. The tribunal determined the application and issued its Decision dated 5<sup>th</sup> March 2020. The tribunal found that the Property Factor had failed to comply with Section 2.5 of the Code and issued a proposed property factor enforcement order in terms of Section 19 (2) (a) of the Act. An opportunity for

parties to make representations in terms of Section 19 (2) (b) of the Act was given and the proposed property factor enforcement order was served on parties on 5<sup>th</sup> March 2020.

### **Determination**

No representations having been received from either party, the Tribunal, in terms of Section 19(3) of the Act, made a property factor enforcement order in the following terms:

**The property factor is required to pay compensation of £100 to the homeowner and this requires to be paid within twenty one days of service on the property factor of the final property factor enforcement order.**

### **Appeals**

**A homeowner or property factor 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.**

**Martin J. McAllister, Legal Member,  
6<sup>th</sup> July 2020**