

Housing and Property Chamber

First-tier Tribunal for Scotland



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

PROPERTY FACTOR ENFORCEMENT ORDER (“PFEO”): Property Factors (Scotland) Act 2011, section 19(3)

Case Reference Number: FTS/HPC/PF/17/0381

The Property:

26 Jenning Gardens, Kilbirnie, North Ayrshire, KA25 7BF

The Parties:-

Marc Miller, 26 Jenning Gardens, Kilbirnie, North Ayrshire, KA25 7BF

(“the Homeowner”)

and

Cunningham Housing Association Ltd

(“the Factors”)

Tribunal Members:

Adrian Stalker (Chairman)

This document should be read in conjunction with the First-tier Tribunal’s Decision and Proposed Property Factor Enforcement Order, both of 7 April 2018

Decision

The Tribunal has decided that it should make a PFEO in the terms previously proposed.

Reasons for the Decision

Since the First-tier Tribunal’s Decision and Proposed PFEO were issued to the parties, the Tribunal has received no representations from either party. Accordingly, the Tribunal has decided to make a PFEO in the terms previously proposed.

Property Factor Enforcement Order

The First-tier Tribunal hereby makes the following PFEO:

In terms of section 20(1) of the Property Factors (Scotland) Act 2011, the Factors are required, within 8 weeks, to take the following steps and produce confirmation that they have done so for consideration by, and to the satisfaction of, the Tribunal:-

- 1. To issue to the Homeowner an accurate and comprehensive Statement of Services, in writing, which complies with section 1.1b of the Code of Conduct for Property Factors, making reference where necessary to the relevant provisions within the Deed of Declaration of Conditions (“the Deed of Conditions”), registered on 30 September 2009, by the Factors, as owners of the development of which the property forms part, which Statement of Services describes the Property Factor’s responsibilities and duties, and accurately sets out, in particular, any arrangements for funds for specific projects or cyclical maintenance in relation to the prospective costs for renewal or replacement of the CCTV system and Play Area, or any other part of the “Development Common Parts”, confirming the amount, payment and repayment of charges (at change of ownership or termination of service), all in accordance with the detailed terms of section 1 of the Code.**
- 2. To arrange for an interest-bearing account or accounting structure to be put in place, for each group of homeowners paying charges in respect of the prospective costs for renewal or replacement of the CCTV system and Play Area, all in accordance with paragraph 3.6b of the Code.**
- 3. To make arrangements to ensure that the next factoring invoice issued to the Homeowner, and any further invoices in the future, set out the correct proportion, being one fiftieth, expressed as a percentage or fraction, of the management fees and charges for common works and services for which the Homeowner is responsible.**
- 4. To provide to the Homeowner a detailed financial breakdown of the charges made in the Factors’ latest invoice rendered to him, and a description of the activities and works carried out which are charged for, all in accordance with paragraph 3.3 of the Code.**
- 5. To make a payment of £250 to the Homeowner.**

Under Section 24(1) of the Property Factors (Scotland) Act 2011, a person who, without reasonable excuse, fails to comply with a property factor enforcement order commits an offence.

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.

A Stalker

Legal Member and Chair

8 June 2018

Date