



Property Factor Enforcement Order (“PFOE”)

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

Property Factors (Scotland) Act 2011, Section 19

The First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Regulations 2017, as amended (“the 2017 Regulations”)

Chamber Ref: FTS/HPC/LM/18/3392

**Hillpark Grove Development, Edinburgh, EH4 7AP
 (“The Property”)**

The Parties:-

**Mr Aylmer Millen, residing at 5 Hillpark Grove, Edinburgh, EH4 7AP
 (“the Homeowner”)**

**Charles White Limited, Citypoint, 65 Haymarket Terrace, Edinburgh, EH12 5HD
 (“the Factor”)**

Tribunal Chamber Members

Maurice O’Carroll (Legal Member)
Kingsley Bruce (Ordinary Member)

This Notice should be read in conjunction with the decision of the Tribunal and proposed PFOE of 17 April 2019 under the above reference

1. By decision dated 17 April 2019, the Tribunal determined that the Factor had breached its duties in terms of s 17(1)(b) of the 2011 Act in that it had failed to comply with sections 2.5, 6.4, 6.9 and 7.2 of the Code of Conduct for Property Factors as required by s 14(5) of that Act. It also found that the Factor had failed in its property factor duties in terms of s 17(1)(a) of that Act as described in the said decision.

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 Tribunal must make a Property Factor Enforcement Order. Before making an Order, to comply with s 19(2) of the Act, the Tribunal gave notice of the proposed PFOE to the factor and allowed the parties an opportunity to give representations to the Tribunal in relation to the proposed Order.

3. The parties were allowed a period of 14 days to make such representations. None were received from either party in relation to the terms of the proposed PFEO.

4. Therefore, the Tribunal makes the following PFEO:

Within 28 days of the communication of the PFEO to the Factor, the Factor must:

- (i) Pay compensation to the Homeowner in the sum of £750 (Seven Hundred and Fifty Pounds) in respect of the time and inconvenience to the Homeowner occasioned by the Factor's failure to comply with its factor duties and duties under the Code.
- (ii) Provide documentary evidence of compliance to the Tribunal with the above Order within 7 days of having done so.

5. It is further recommended that the Factor amends its Written Statement of Service at pages 14 and 15 thereof to make clear the Complaint Handling Procedure in relation to complaints against contractors.

Under Section 24(1) of the Property Factors (Scotland) Act 2011, failure to comply with a PFEO has serious consequences and may constitute a criminal offence.

Appeals

6. 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 within 30 days of the date the decision was sent to them.

Signed: M O'Carroll
Chairman

Date: 9 May 2019