

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)

Chamber Ref: FTS/HPC/PF/19/1099

**Flat 9, 50 East Fettes Avenue, Edinburgh, EH4 1RE
 (“the Property”)**

The Parties:-

**Ms Nora Rundell, Flat 9, 50 East Fettes Avenue, Edinburgh EH4 1RE
 (“the Homeowner”)**

**James Gibb Property Management Limited, 4 Atholl Place, Edinburgh EH3 8HT
 (“the Factor”)**

Tribunal Members:

Graham Harding (Legal Member)

Helen Barclay (Ordinary Member)

This document should be read in conjunction with the First-tier Tribunal’s Decision of 1 September 2019 as amended by its review decision of 16 October 2019.

Decision

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

The decision of the Tribunal is unanimous

Reasons for Decision

In the Tribunal’s decision of 1 September 2019, it proposed to make a PFEO as follows:

- (1) In respect of its failures of its property factors duties and breaches of the Code and in respect of the trouble, distress, worry and substantial inconvenience caused to the Homeowner pay to her the sum of £300.00 from its own funds and that within a period of 30 days.

The Tribunal indicated that prior to making a property factor enforcement order, 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 Tribunal's decision was intimated to the parties on 4 September 2019.

By email dated 6 September 2019 the Homeowner accepted the Tribunal's decision and the terms of the proposed PFEO.

By email dated 19 September 2019 the Factor sought a review of the Tribunal's decision. Following consideration of the Factor's request for a review the Tribunal acceded to the request and after considering the grounds for the review issued an amended decision. The tribunal did not amend the proposed PFEO.

The Factor subsequently sought permission to appeal the Tribunal's decision to the Upper Tribunal by email dated 6 November 2019. Following consideration of the request the Tribunal refused permission to appeal on 10 December 2019.

Having considered matters the Tribunal now confirms its original decision to issue a PFEO in the same terms.

Property Factor Enforcement Order

The First-tier Tribunal hereby makes the following PFEO:

(1) In respect of its failures of its property factors duties and breaches of the Code and in respect of the trouble, distress, worry and substantial inconvenience caused to the Homeowner pay to her the sum of £300.00 from its own funds and that within a period of 30 days.

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.

Graham Harding Legal Member and Chair

15 January 2020 Date