

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Proposed Property Factor Enforcement Order ("PFEO"): Property Factors (Scotland) Act 2011 Section 19(2)(a)

Chamber Ref: FTS/HPC/PF/22/0658 and FTS/HPC/PF/22/1123

Re : Flat 7/4, Kirkmay House, North Market Gate, Crail KY10 3TH ("Property")

The Parties:-

Lorna Allport, 7 Bedcow View, Kirkintilloch, Glasgow G66 3JA ("Homeowner")

Abbey Forth Property Management Ltd, Balcairn House, Viewfield, Dunfermline KY12 8HY ("Factor")

Tribunal Members:

Joan Devine – Legal Member

Elaine Munroe – Ordinary Member

This document should be read in conjunction with the First-tier Tribunal's Decision of the same date.

The First-tier Tribunal proposes to make the following Property Factor Enforcement Order ("PFEO") :

1. By no later than 24 May 2023 the Factor will provide to the Homeowner a summary of all charges made by the Factor to the Homeowner in the period 30 April 2013 to 3 March 2022 which will contain an explanation of the method of calculating the sum due by reference to the burdens contained in the title to the Property and in particular those set out in disposition by Kenneth Alan Preston to Dennis James Fordham and his executors and assignees recorded GRS (Fife) 30 July 1973. Any charges made which have not been properly calculated in accordance with the title must be identified.
2. By no later than 7 June 2023 any overpayment identified in terms of paragraph 1 hereof will be refunded by the Factor to the Homeowner or any resultant underpayment will be invoiced to the Homeowner by the Factor.
3. By 24 May 2023 the Factor will pay to the Homeowner from their own funds, £500 as compensation for breach of sections 1, 2, 3 and 7 of the 2012 and 2021 Code; sections 2, 6 and 11 of the overarching standards of practice in the 2021 Code and the property factor duties.

Section 19 of the 2011 Act provides as follows:

"(2) In any case where the First-tier Tribunal proposes to make a property factor

enforcement order, it must before doing so—

- (a) give notice of the proposal to the property factor, and*
- (b) allow the parties an opportunity to make representations to it.*

(3) If the First-tier Tribunal is satisfied, after taking account of any representations made under subsection (2)(b), that the property factor has failed to carry out the property factor's duties or, as the case may be, to comply with the section 14 duty, the First-tier Tribunal must make a property factor enforcement order."

The intimation of the First-tier Tribunal's Decision and this proposed PFEO to the parties should be taken as notice for the purposes of section 19(2)(a) and parties are hereby given notice that they should ensure that any written representations which they wish to make under section 19(2)(b) reach the First-tier Tribunal by no later than 14 days after the date that the Decision and this proposed PFEO is sent to them by the First-tier Tribunal. If no representations are received within that timescale, then the First-tier Tribunal is likely to proceed to make a property factor enforcement order without seeking further representations from the parties.

Failure to comply with a PFEO has serious consequences and may constitute an offence.

Legal Member

Date : 24 April 2023