

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Property Factor Enforcement Order (“PFOE”): Property Factors (Scotland) Act 2011 Section 19(3)

Chamber Ref: FTS/HPC/PF/17/0141

Flat 3/1 4 Houston Street, Renfrew, PA4 8NR (“The Property”)

The Parties: -

Mrs Doreen Watt, 9 Dounie Crescent, Bishopbriggs, Glasgow, G64 3JG (“the Homeowner”)

Apex Property Factor Limited, 46 Eastside, Kirkintilloch, East Dunbartonshire, G66 1QH (“the Property Factor”)

Tribunal Members:

Josephine Bonnar (Legal Member)

Elizabeth Dickson (Ordinary Member)

This document should be read in conjunction with the First-tier Tribunal's Decision of 4 September 2017.

Decision

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

The decision of the Tribunal is unanimous.

Reasons for decision

In the Tribunal's decision of 4 September 2017, it proposed to make a PFOE as follows

- (1) The Tribunal order the Property Factor to pay to the Homeowner the sum of £550 as compensation for her time, effort and inconvenience within 28 days of intimation of the Property Factor Enforcement Order.

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 date 13 September 2017. On 27 September 2017 the Property Factor made a request for a review of the Tribunal's decision. The Property Factor was asked to confirm that a copy of the request had been intimated to the other party but failed to do so. Both parties were given time to lodge written representations in connection with the application for review but failed to do so. The Tribunal proceeded to consider the request and by decision dated 3 January 2018, refused the request. This decision was intimated to the parties on 9 January 2018. Neither party has lodged representations in relation to the proposed PFEO.

The Tribunal is satisfied that the Property Factor has failed to comply with its duties under section 14(5) of the Property Factors (Scotland) Act 2011 in that it did not comply with sections 1.Ce, 2.2, 3.3, 4.5 and 6.3 of the Code of Conduct. The Tribunal is also satisfied that the Property factor has failed to carry out its property factor duties in terms of section 17(5) of the said Act. The Tribunal notes that neither party has made any representations in relation to the proposed PFEO. The Tribunal is satisfied as to the terms of the proposed PFEO and that no amendment is required.

Property Factor Enforcement Order

The First-tier Tribunal hereby makes the following PFEO:

- (1) The Tribunal order the Property Factor to pay to the Homeowner the sum of £550 as compensation for her time, effort and inconvenience within 28 days of intimation of the Property Factor Enforcement Order.

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 a 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.

Josephine Bonnar,
Legal Member

24 January 2018