

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Property Factor Enforcement Order (“PFEQ”)

Property Factors (Scotland) Act 2011 Section 19(3)

Chamber Ref: FTS/HPC/PF/19/1666

2/1 Cranworth Street, Glasgow, G12 8AG (“The Property”)

The Parties:-

Ms Alison Arnot, 2/1, 40 Cranworth Street, Glasgow, G12 8AG
("the Homeowner")

Lomond Property Factors Ltd,
The Gowk,
Gartocharn,
Dunbartonshire,
G83 8ND
("the Property Factor")

Tribunal Members:

Martin J. McAllister, Solicitor, (Legal Member)
Andrew Taylor, Chartered Surveyor (Ordinary Member)
(the “tribunal”)

This document should be read in conjunction with the First-tier Tribunal’s Decision of 30th August 2019 which was served on the parties on or around 3rd September 2019.

In this decision the Property Factors (Scotland) Act 2011 is referred to as “the 2011 Act and the Property Factors (Scotland) Act 2011 Code of Conduct for Property Factors is referred to as “the Code.”

Decision

The Tribunal has decided to make a property factor enforcement order (PFEQ) in terms of its Decision and Notice of Proposed PFEQ dated 30th September 2019. The decision of the Tribunal is unanimous.

Reasons for Decision

1. In the Tribunal's decision of 30th August 2019 it proposed to make a PFEO as follows:

The Property Factor is to pay the sum of £500 to the Homeowner in respect of compensation. The payment is to be made within twenty eight days of service of the Property Factor Enforcement Order on the Property Factor.

2. The Tribunal's decision was intimated to the parties on or about 3rd September 2019. No representations on the proposed order under Section 19(2) (b) of the 2011 Act were received by the Tribunal. The Tribunal remained satisfied that the Property Factor had failed to comply with the property factor's duty and their duty under Sections 2.5 and 6.1 of the Property Factor's Code of Conduct. Accordingly under Section 19(3) of the 2011 Act the Tribunal was required to make a PFEO.

Property Factor Enforcement Order

The First-tier Tribunal hereby makes the following PFEO:

The Property Factor is to pay the sum of £500 to the Homeowner in respect of compensation. The payment is to be made within twenty eight days of service of the Property Factor Enforcement Order on the Property Factor.

Under Section 24(1) of the 2011 Act, a person who, without reasonable excuse, fails to comply with a property Failure 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.

Martin J. McAllister, Legal Member and Chair

25th September 2019