



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

**Decision on homeowner's application: Property Factors (Scotland) Act 2011
Section 23(1)**

Reference number: FTS/HPC/PF/19/3303

10 Dudley Drive, Glasgow, G12 9SB ("the Property")

The Parties:

John Dunn, 10 Dudley Drive, Glasgow, G12 9SB ("the Homeowner")

W. M. Cumming, Turner and Watt, 40 Carlton Place, Glasgow G5 9TS ("the Property Factor")

Tribunal Members:

Josephine Bonnar (Legal Member)

Andrew McFarlane (Ordinary Member)

DECISION

The Tribunal determined that the Property Factor has failed to comply with the Property Factor Enforcement Order ("PFEO") dated 14 December 2020.

The decision of the Tribunal is unanimous.

Background

1. On 14 December 2020, the Tribunal issued a PFEO in the following terms: -
 - (i) The Tribunal order the Property Factor to pay to the Homeowner the sum of £400 for his time, effort, and inconvenience, within 28 days of intimation of the PFEO. This payment is to be made by cheque or bank transfer and not as a credit on the Homeowner's factoring account.
 - (ii) The Tribunal order the Property Factor to issue a letter of apology to the Homeowner for their failure to respond to the Homeowner's enquiries and complaints, within 28 days of intimation of the PFEO.

2. The PFEO was issued to the parties. Following expiry of the time limit for compliance, the Tribunal contacted the parties to ask whether the Property Factor had complied with the PFEO. On 25 January 2021, the Homeowner notified the Tribunal that the Property Factor had not complied with the PFEO. A further letter was issued to the parties regarding compliance with the Order. On 23 February 2021, the Homeowner notified the Tribunal that there had been no contact from the Property Factor and that he had not received a letter of apology or payment of the compensation. The Property Factor did not respond to either letter from the Tribunal.

Reasons for Decision

3. The Property Factor has failed to respond to letters from the Tribunal requesting confirmation of compliance with the PFEO. The Homeowner has notified the Tribunal on 25 January and 23 February 2021 that the Property Factor has not contacted him and has not complied with the PFEO. In the absence of any evidence to the contrary, the Tribunal is satisfied that the Property Factor has failed to comply with the PFEO.

Decision

4. The Tribunal determines that the Property Factor has failed to comply with the PFEO dated 14 December 2020.

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.

Josephine Bonnar, Legal Member:

3 March 2021