

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/LM/17/0245

Re: Development at Caldermains Estate, Cleland, Motherwell

The Parties:-

Mr Kieran McKay, residing at 20 Baxter Brae, Cleland, Motherwell, ML1 5FG (“the Homeowner”)

Life Property Management, Regent Court, 70 West Regent Street, Glasgow, G2 2Q7 (“the Factor”)

Tribunal Members

Helen Forbes (Legal Member)

Helen Barclay (Ordinary Member)

This document should be read in conjunction with the First-tier Tribunal’s Decision of 12th October 2017.

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 12th October 2017, it proposed to make a PFEO as follows:

“Within six weeks of the date of the communication of this correspondence to the Respondent, the Respondent must:

1. Pay to the Applicant the sum of £100.
2. Draft and provide to each homeowner and the First-tier Tribunal a written statement of services taking cognisance of the requirements of the Code.

3. Confirm in writing to the office of the Tribunal that the above steps have been carried out."

The Tribunal indicated that, prior to making a PFEO, 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 13th December 2017.

No representations were made by either party on the proposed terms of the PFEO.

The Tribunal confirmed its decision made on 12th October 2017 in terms of Section 19(1)(a) of the Act. The Tribunal agreed that it would be appropriate to make a PFEO.

Property Factor Enforcement Order

The First-tier Tribunal hereby makes the following PFEO:

Within six weeks of the date of the communication of this correspondence to the Respondent, the Respondent must:

1. Pay to the Applicant the sum of £100.
2. Draft and provide to each homeowner and the First-tier Tribunal a written statement of services taking cognisance of the requirements of the Code.
3. Confirm in writing to the office of the Tribunal that the above steps have been carried out.

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.

Right of Appeal

In terms of section 46 of the Tribunals (Scotland) Act 2014, a party 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.

Helen Forbes

Legal Member and Chairperson

5th January 2018