

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/PF/20/1503

272-280 Bell Street, Glasgow, G4 0SZ, 20-26 Great Dovehill, Glasgow, G1 5DN (“the Development”)

The Parties:-

Mrs Suzanne Caldwell, 6/1 274 Bell Street, Glasgow, G4 0SZ (“the Homeowner”)

Speirs Gumley Property Management, Red Tree Magenta, 270 Glasgow Road, Glasgow, G73 1UZ (“the Factor”)

Tribunal Members

Ms H Forbes (Legal Member)

Mr R Buchan (Ordinary Member)

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

1. In the Tribunal’s decision of 21st December 2020, it proposed to make a PFEO as follows:

“The Factor is required to pay to the Homeowner within 21 days of intimation to them of the PFEO the sum of £150 from their own funds to compensate the Homeowner for the distress, frustration and inconvenience caused as a result of the Factor’s failure to carry out its property factor duties.”

2. 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 decision was issued on 22nd December 2020.

3. By email dated 22nd December 2020, the Homeowner requested clarification in relation to the decision. An amended decision was issued on 5th January 2021. The prospective PFEO was not amended.
4. Neither party made representations on the terms of the PFEO.
5. The Tribunal has now confirmed its decision made 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:

The Factor is required to pay to the Homeowner within 21 days of intimation to them of the PFEO the sum of £150 from their own funds to compensate the Homeowner for the distress, frustration and inconvenience caused as a result of the Factor's failure to carry out its property factor duties.

Failure to comply with a PFEO may have serious consequences and may constitute 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.

Legal Member and Chairperson

21st January 2021