



**DECISION: Failure to comply with Property Factor Enforcement Order (PFOE);
Property Factors (Scotland) Act 2011 Section 23**

Chamber Ref: FTS/HPC/PF/19/2593

Property: Flat 3/1, 8 Whitehall Street, Glasgow, G31 2LJ (“The Property”)

The Parties:-

Mr Max Withington, residing at 5 Birch Grove View, Newton Mearns, Glasgow, G77 6NJ (“the Homeowner”)

and

Apex Property Limited, having a place of business at 46 Eastside, Kirkintilloch, East Dunbartonshire, G66 1QH (“the Property Factor”)

Tribunal Members

Mr James Bauld (Legal Member)



Mr Andrew McFarlane (Surveyor, Ordinary Member)

Decision:

1. The property factor has failed to comply with the PFEO dated 6 March 2020;
2. To serve a Notice of Failure to comply on the Scottish Ministers in terms of section 23(2) of the Act; and
3. To report the factor's failure to comply to the police for prosecution of the factors in terms of section 24 of the Act.

Statement of Reasons

1. By its Decision dated 18 December 2109, the tribunal determined that the property factor had failed to comply with certain duties arising from the Code of Conduct for Property Factors ("the Code") and accordingly determined to make a Property Factor Enforcement Order.
2. On 6 March 2020 the tribunal issued a PFEO which required the property factor within twenty eight days to pay to the homeowner from their own funds the sum of six hundred pounds (£600) as compensation for the inconvenience occasioned by the factors' breaches of the Code and their duties under the Act.
3. By email dated 6 August 2020 the homeowner returned a PFEO Compliance Check pro forma in which he advised that the property factor had not completed the actions required by the PFEO.
4. No information or representations about compliance have been received from the property factor and no excuse for the failure has been presented.
5. The tribunal accordingly determines that the property factor has failed to comply with the PFEO and that there is no reasonable excuse for the failure.



Right of Appeal

In terms of Section 46 of the Tribunal (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.

15 October 2020

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Legal member

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date