

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/23/0271

Re: Property at Flat 0/1, 33 St Andrews Crescent, Pollokshields, Glasgow, G41 5SE (“the Property”)

Parties:

Mr Alexander Gillespie, Flat 0/1, 33 St Andrews Crescent, Pollokshields, Glasgow, G41 5SE (“the Applicant”)

Southside Factoring and Related Services Limited, Southside House, 135 Fifty Pitches Road, Glasgow, G51 4EB (“the Respondent”) Tribunal Members

Ms H Forbes (Legal Member) and Ms C Jones (Ordinary Member)

Decision

The Tribunal has decided that it should make a PFEO in the terms originally proposed by it. The decision is unanimous.

Reasons for Decision

1. In the Tribunal’s decision of 23rd October 2024, it proposed to make a PFEO as follows:

“The Property Factor is required to pay to the Homeowner within 14 days of intimation to them of the PFEO the sum of £800 from their own funds to compensate the Homeowner for the distress, frustration and inconvenience caused as a result of the Property Factor’s failure to comply with the Code of Conduct for Property Factors.”

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 23rd October 2024.
3. By email dated 27th October 2024, the Homeowner requested a review of the decision.

4. By email dated 6th November 2024, the Property Factor representative stated that the Property Factor had acted on the proposed PFEO and made payment to the Homeowner in compliance, stating that a PFEO was not necessary.
5. The Property Factor lodged a response to the review request dated 14th November 2024.
6. The Tribunal reviewed the decision and made no change. The review decision was issued on 5th December 2024.
7. The Tribunal has now confirmed its decision made in terms of Section 19(1)(a) of the Act. The Tribunal agrees that it would be appropriate to make a PFEO, notwithstanding that the Property Factor claims to have made payment to the Homeowner.

Property Factor Enforcement Order

8. The First-tier Tribunal hereby makes the following PFEO:

The Property Factor is required to pay to the Homeowner within 14 days of intimation to them of the PFEO the sum of £800 from their own funds to compensate the Homeowner for the distress, frustration and inconvenience caused as a result of the Property Factor's failure to comply with the Code of Conduct for Property Factors.

9. Under section 24 (1) of the Act, a person who, without reasonable excuse, fails to comply with the Property Factory 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
13th December 2024