

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Property Factor Enforcement Order (“PFEQ”): Property Factors (Scotland) Act 2011 Section 19(3)

Chamber File Reference number: FTS/HPC/PF/18/0181

Re Property at 3/3 Oldmill Court, Clydebank, G81 6BT

The Parties:

Mrs Tanya Williams, Daleview, Roman Road, Clydebank, G81 6BT
("the Homeowner")

Hacking and Paterson Management Services, 1 Newton Terrace, Charing Cross, Glasgow, G3 7PL
("the Property Factor")

Members of the tribunal:

Martin J. McAllister, legal member and Elizabeth Dickson, ordinary member.

This document should be read in conjunction with the First-tier Tribunal's Decision of 17th May 2018.

Decision

The Tribunal has decided that it should make a PFEQ in the terms originally proposed by it.

The Tribunal noted that the Property Factor has already paid the sum of £200 to the Homeowner and decided to issue a Certificate of Compliance in respect of implementation of the PFEQ.

The decision of the Tribunal is unanimous.

Background

The Tribunal issued a Decision on 17th May 2018. The Homeowner requested that the Tribunal review its Decision and it declined to do so. The Homeowner requested leave to appeal the Decision to the Upper Tribunal for Scotland. Leave to appeal was refused.

Reasons for Decision

In the Tribunal's decision of 17th May 2018, it proposed to make a PFEO as follows:

The Property Factor is required to pay compensation of £200 to the Homeowner within fourteen days of the Property Factor Order being made.

The Tribunal indicated that prior to making a property factor enforcement order, 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 18th May 2018.

The Homeowner made no representations in respect of the proposed PFEO but did make requests in respect of a review of the Decision and also in respect of permission to appeal the Decision.

The Property Factor wrote to the Tribunal on 24th May 2018 enclosing a copy of a letter to the Homeowner of the same date with which was enclosed a cheque for £200.

The Tribunal considered matters and determined that a Property Factor Enforcement Order be made but that a Certificate of Compliance be issued in view of the fact that the sum of £200 has already been paid to the Homeowner by the Property Factor.

Property Factor Enforcement Order

The First-tier Tribunal hereby makes the following PFEO:

The Property Factor is required to pay compensation of £200 to the Homeowner within fourteen days of the Property Factor Order being made.

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.

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.

Martin J. McAllister
Legal Member and Chair

16th July 2018