

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Proposed Property Factor Enforcement Order ("PFEO"): Property Factors (Scotland) Act 2011 Section 19(2)(a)

Chamber Ref: FTS/HPC/PF/22/1597

Re : Flat 3/2, 87 Dunlop Street, Glasgow G1 4ET ("Property")

The Parties: -

John Blair, Flat 3/2, 87 Dunlop Street, Glasgow G1 4ET ("Homeowner")

James Gibb Residential Factors, 65 Greendyke Street, Glasgow G1 5PX ("Factor")

Tribunal Members:

Joan Devine – Legal Member

Andrew McFarlane – Ordinary Member

This document should be read in conjunction with the First-tier Tribunal's Decision of the same date.

The First-tier Tribunal proposes to make the following Property Factor Enforcement Order ("PFEO") :

1. By 28 February 2023 the Factor will provide to the Homeowner an insurance statement as specified in section 5.3 of the 2021 Code for the period May 2020 to May 2021.
2. By no later than 31 January 2023, the Factor will apportion the insurance costs for the Property as required by the Written Statement of Services, that is in accordance with the Deed of Conditions registered on 22 December 2005.
3. By no later than 31 January 2023 the Factor will calculate, in accordance with the Deed of Conditions registered on 22 December 2005, the amount due by the Homeowner in respect of insurance costs for the development of which the Property forms part, for the period May 2020 to May 2021 and May 2022 to May 2023. Thereafter any resultant overpayment will be refunded by the Factor to the Homeowner or any resultant underpayment will be invoiced to the Homeowner by the Factor.

Section 19 of the 2011 Act provides as follows:

"(2) In any case where the First-tier Tribunal proposes to make a property factor enforcement order, it must before doing so—

- (a) give notice of the proposal to the property factor, and
- (b) allow the parties an opportunity to make representations to it.

(3) If the First-tier Tribunal is satisfied, after taking account of any representations made under subsection (2)(b), that the property factor has failed to carry out the property factor's duties or, as the case may be, to comply with the section 14 duty, the First-tier Tribunal must make a property factor enforcement order."

The intimation of the First-tier Tribunal's Decision and this proposed PFEO to the parties should be taken as notice for the purposes of section 19(2)(a) and parties are hereby given notice that they should ensure that any written representations which they wish to make under section 19(2)(b) reach the First-tier Tribunal by no later than 14 days after the date that the Decision and this proposed PFEO is sent to them by the First-tier Tribunal. If no representations are received within that timescale, then the First-tier Tribunal is likely to proceed to make a property factor enforcement order without seeking further representations from the parties.

Failure to comply with a PFEO has serious consequences and may constitute an offence.

Joan Devine

Legal Member

Date : 21 September 2022