

Housing and Property Chamber

First-tier Tribunal for Scotland



Decision

Section 17 and 19 (3) of the Property Factors (Scotland) Act 2011 (“the Act”) and the Property Factors (Scotland) Act 2011 Code of Conduct for Property Factors.

Reference number: FTS/HPC/PF/23/3112

Re: 38 Davie Sneddon Way, Kilmarnock, KA1 1AD (“the Property”)

The Parties:

Miss Nicola Wilson, 38 Davie Sneddon Way, Kilmarnock, KA1 1AD (“the Applicant”)

Indigo Square Property Ltd, 42 Holmlea Road, Glasgow, G44 4AL (“the Respondent”)

Tribunal Members:

Martin J. McAllister, Solicitor, (Legal Member)

Elizabeth Dickson, (Ordinary Member)

(the “tribunal”)

Decision

I) The Respondent has breached the Property Factors (Scotland) Act 2011 Code of Conduct for Property Factors 2021 and has failed to comply with the property factor’s duties.

II) The tribunal makes a property factor enforcement order (“PFEO”) requiring the Respondent to pay the sum of ONE THOUSAND FIVE HUNDRED POUNDS (£1500) to the Applicant within thirty days of service on it of the Decision and the PFEO.

Background

1. This is an application by Miss Wilson in respect of the Property in relation to the Respondent’s actings as a property factor. The application is in terms of Section 17 of the Property Factors (Scotland) Act 2011 (the 2011 Act). The application alleges that the Respondent has failed to comply with various sections of the 2021

version of the Property Factors (Scotland) Act 2011 Code of Conduct for Property Factors (“the Code”). It also states that the Applicant considers that the Property Factor has not carried out the property factor’s duties in terms of the Act. The application was dated 5 September 2023 and was accepted by the Tribunal for determination on 29 September 2023.

2. Evidence was heard on 22 July 2024 and 20 November 2024. This Decision should be read in conjunction with the Decision dated 14 January 2025.
3. The Tribunal determined that the Respondent had failed to comply with the Code and had failed to comply with the property factor’s duties. In terms of Section 19 (2), notice was given to the parties of a proposed property factor enforcement order (“PFEO”). The notice was sent to parties on 20 January 2025 and neither submitted any representations to the Tribunal.

Disposal

4. The tribunal had regard to Section 19 (3) of the Act and determined to make a property factor enforcement order requiring the Respondent to pay the sum of £1500 to the Applicant within 30 days of service of this decision and the PFEO.

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
5 February 2025**