

Housing and Property Chamber

First-tier Tribunal for Scotland



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

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

Chamber Ref: FTS/HPC/PF/17/0346

2/1, 6 Ratho Drive, Springburn, Glasgow, G21 1NA
("the Property")

The Parties:-

Ms Fiona Taylor, 57F Drumbathie Mansions, Drumbathie Road, Airdrie, ML6 6EW
("the Homeowner")

James Gibb Property Management Limited, 65 Greendyke Street, Glasgow, G1 5PX
("the Property Factor")

Tribunal members

Susanne L M Tanner Q.C. (Legal Member)
Sara Hesp (Ordinary Member)

1. This document should be read in conjunction with the decision of the same date of the First-tier Tribunal ("the tribunal") under Section 19(3) of the Property Factors (Scotland) Act 2011 ("the 2011 Act").
2. The tribunal makes the following Property Factor Enforcement Order ("PFEO"):

Within 30 days of intimation of the PFEO the Property Factor must:

- a. Pay to the Homeowner the sum of £250 in respect of the delay, worry and inconvenience occasioned by the Factor's failure to carry out its property factor's duties and to ensure compliance with its duties under the Code (said payment to be made directly to the Homeowner and not as a credit to the Homeowner's account with the Property Factor); and provide documentary evidence to the tribunal of said payment.

- b. Send a written apology to the Homeowner in respect of (i) the delay in answering her enquiries about insurance charges, (iii) the delay in providing a copy of its written statement of services, (iii) the delay in providing details of its in-house complaints procedure and (iv) the delay until 28 August 2016 in refunding the advance insurance charges; and provide a copy of the same to the tribunal.
3. Failure to comply with a PFEO has serious consequences. Where the tribunal decides that a property factor has failed to comply with the property factor enforcement order, the tribunal must serve notice of the failure on the Scottish Ministers in terms of Section 23 of the 2011 Act. A person who, without reasonable excuse, fails to comply with a property factor enforcement order commits an offence under Section 24 of the 2011 Act.

4. 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

S Tanner

Susanne L M Tanner QC
Legal Member and Chair

13 April 2018