

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/23/0621

Re: 10/2 Gayfield Street, Edinburgh, EH1 3NR (“the Property”)

Parties:

Mrs Sarah Pritt, 53/1 East Claremont Street, Edinburgh, EH7 4HU (“the Homeowner”)

Charles White Ltd., 65 Haymarket Terrace, Edinburgh, EH12 5HD (“the Property Factor”)

Tribunal Members

Ms H Forbes (Legal Member) and Mrs M Lyden (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 22nd May 2024, it proposed to make a PFEO as follows:

“The Property Factor is required to

- (i) Remove all late payment charges occurring from 18th February 2021 to date from the Homeowner’s account.
- (ii) Pay to the Homeowner within 14 days of intimation to them of the PFEO the sum of £200 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 May 2024.
3. Neither party made representations under section 19(2)(b) of the Act.
4. The Tribunal has now confirmed its decision made in terms of Section 19(1)(a) of the Act. The Tribunal agreed that it would be appropriate to make a PFEO.

Property Factor Enforcement Order

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

The Property Factor is required to

- (iii) Remove all late payment charges occurring from 18th February 2021 to date from the Homeowner's account.
 - (iv) Pay to the Homeowner within 14 days of intimation to them of the PFEO the sum of £200 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.
6. 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
12th June 2024