

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Property Factor Enforcement Order (“PFEО”): Property Factors (Scotland) Act 2011 Section 19(2)(a)

Reference number : FTS/HPC/PF/22/1501 and FTS/HPC/PF/22/1883

Re: 2473 Dumbarton Road, 1/1 Rothesay Court, Glasgow G14 ONT (“Property”)

The Parties:

Mark Welsh, 2473 Dumbarton Road, 1/1 Rothesay Court, Glasgow G14 ONT (“Homeowner”)

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

Tribunal Members:

Joan Devine – Legal Member

Mary Lyden – Ordinary Member

This document should be read in conjunction with the First-tier Tribunal’s Decision of 25 May 2023.

Decision

The Tribunal has decided that it should make a PFEО in the terms originally proposed by it. The decision of the Tribunal is unanimous

Reasons for Decision

In the Tribunal’s decision of 25 May 2023 it proposed to make a PFEО as follows:

1. By no later than the date falling 21 days after the date of this PFEО the Factor is to contact the current provider of the common insurance policy for the block of 6 flats at Rothesay Court, 2473 Dumbarton Road, Glasgow G14 ONT in writing and tell them that the Homeowner does not wish to continue to be covered by the common insurance policy currently in place and request that the Property be excluded from the common insurance policy. The Factor should then respond to any questions raised by said insurance provider regarding the provision of documentation from the Homeowner evidencing the adequacy of insurance that he has in place for the Property.

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 Property Factors (Scotland) Act 2011 (“Act”).

The Tribunal's decision was intimated to the parties on 25 May 2023. The Factor sought permission to appeal which was granted. The appeal was refused by decision of the Upper Tribunal dated 11 August 2023. The Tribunal confirms the decision made in terms of Section 19(1) (a) of the Act dated 25 May 2023.

Property Factor Enforcement Order

The First-tier Tribunal hereby makes the following PFEO in terms of section 19(3) of the Act:

1. By no later than the date falling 21 days after the date of this PFEO the Factor is to contact the current provider of the common insurance policy for the block of 6 flats at Rothesay Court, 2473 Dumbarton Road, Glasgow G14 0NT in writing and tell them that the Homeowner does not wish to continue to be covered by the common insurance policy currently in place and request that the Property be excluded from the common insurance policy. The Factor should then respond to any questions raised by said insurance provider regarding the provision of documentation from the Homeowner evidencing the adequacy of insurance that he has in place for the Property.

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.

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

Joan Devine

Legal Member

Date : 23 November 2023

