

# Housing and Property Chamber

## First-tier Tribunal for Scotland



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

Statement of Decision by the First-tier Tribunal for Scotland (Housing and Property Chamber) in an application under Section 19 of the Property Factors (Scotland) Act 2011 (“the Act”)

Chamber Ref: FTS/HPC/PF/23/4648 and FTS/HPC/PF/4649

Re: Property at Flat 8, 367 Argyle Street, Glasgow, G2 8LT and Flat 17, 367 Argyle Street, Glasgow, G2 8LT (“the Property”)

#### Parties:

Mr Mohit Gajri, 12 Corstorphine Bank Drive, Edinburgh, EH12 8RS (“the Applicant”)

91BC, Garscadden House, 3 Dalsetter Crescent, Glasgow, G15 8TG (“the Respondent”)

#### The Tribunal comprised:-

Ms Ruth O’Hare - Legal Member  
Mrs Helen Barclay - Ordinary Member

#### Decision

The Tribunal has decided that it should make a Property Factor Enforcement Order (“PFEO”) in the terms originally proposed by it subject to the inclusion of timescales for compliance with parts (b) and (c). The decision is unanimous.

#### Reasons for Decision

1. In the Tribunal’s decision of 11 April 2024, it proposed to make a PFEO as follows:

*“The Property Factor is required to:-*

*(a) pay to the Homeowner within 14 days of intimation to them of the PFEO the sum of £100 from their own funds to compensate the Homeowner for the frustration and inconvenience caused as a result of the Property Factor’s failure to comply with the Code of Conduct for Property Factors;*

*(b) update the Written Statement of Services to reflect the change in service delivery in respect of the service portal which is now managed by otagoTech Ltd together with clear information as to any mutual interests between the Property Factor and the company; and*

*(c) provide the Homeowner with clear information as to the calculation of the charge levied in respect of the service portal including details of the fee charged by otagoTech Ltd in the form of an unredacted invoice.”*

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 16<sup>th</sup> April 2024.
3. On 25<sup>th</sup> April 2024 the Tribunal received written representations from Mellicks Solicitors on behalf of the Respondent. Mellicks Solicitors confirmed that the Respondent did not intend on making any representations and would await the PFEO. They noted that there were no timescales in respect of parts (b) and (c) of the proposed order and sought clarification on this. No written representations were received from the Applicant.
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:-**

- (a) **pay to the Homeowner within 14 days of intimation to them of the PFEO the sum of £100 from their own funds to compensate the Homeowner for the frustration and inconvenience caused as a result of the Property Factor's failure to comply with the Code of Conduct for Property Factors;**
  - (b) **update the Written Statement of Services within 14 days of intimation to them of the PFEO to reflect the change in service delivery in respect of the service portal which is now managed by otagoTech Ltd together with clear information as to any mutual interests between the Property Factor and the company; and**
  - (c) **provide the Homeowner within 14 days of intimation to them of the PFEO with clear information as to the calculation of the charge levied in respect of the service portal including details of the fee charged by otagoTech Ltd in the form of an unredacted invoice.**
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.**

Signed

Ruth O'Hare  
Legal Member and Chairperson

9 May 2024

