

Housing and Property Chamber

First-tier Tribunal for Scotland



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

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

Chamber Ref: FTS/HPC/LM/20/1662

The Parties:-

John Aitchison Cameron, 19 Regis Court, Edinburgh, EH4 6RG ("the Homeowner")

Charles White LTD, City Point, 65 Haymarket Terrace, Edinburgh, EH12 5HD ("the Property Factor")

The Tribunal:-

Melanie Barbour (Legal Member)
John Blackwood (Ordinary Member)

This document should be read in conjunction with the First-tier Tribunal's Decision of 26 October 2021.

Decision

The First-tier Tribunal has decided that it should make a Property Factor Enforcement Order ("PFEO").

The decision of the tribunal is unanimous.

Reasons for Decision

In the Tribunal's decision of 26 October 2021, it proposed to make a PFEO as follows:

Within a period of two months from the date of the PFEO the Factor must:

- (1) From their own funds pay the homeowner the sum of £200.00 as compensation

- (2) Provide a written apology to the homeowner for the Property Factor's failure to properly discharge duties, namely, to discuss with any owner's association proposed changes to the fee with the association, for approval prior to letters being issued to owners (see Written Statement of Services 1 January 2018 page 9 section 3 A third paragraph).

The tribunal indicated that prior to making the 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 Tribunal's decision was intimated to the parties on 26 October 2021.

No written representations were received from either party to the proposed PFEO.

Accordingly, the tribunal considers that it should now make the PFEO.

Property Factor Enforcement Order

The First-tier Tribunal makes the following Order:

Within a period of two months from the date of the PFEO the Factor must:

- (1) From their own funds pay the homeowner the sum of £200.00 as compensation
- (2) Provide a written apology to the homeowner for the Property Factor's failure to properly discharge duties, namely, to discuss with any owner's association proposed changes to the fee with the association, for approval prior to letters being issued to owners (see Written Statement of Services 1 January 2018 page 9 section 3 A third paragraph).

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.

Melanie Barbour
19 November 2021

Legal Member and Chair
Date