

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 (“the Act”), Section 19 (3)

Chamber Ref: FTS/HPC/PF/18/1292

Property: 3A Jerviston Court, Motherwell, ML1 4BS (“the property”)

The Parties:-

William Tweedie, 2, Kilnnell Quadrant, Motherwell, ML1 3JN (“**the homeowner**”)

APEX Property Factor Limited, 46 Eastside, Kirkintilloch, East Dunbartonshire, G66 1QH (“**the property factor**”)

Tribunal Members: -

Simone Sweeney (Legal Member) John Blackwood (Ordinary Member)

This document should be read in conjunction with the decision of the Tribunal of even date under the reference number noted above.

1. By decision of 26th November 2018, the Tribunal determined that the property factor has breached duties in terms of Section 17(1)(b) of the 2011 Act in that it has failed to comply with Section 2.5 of the Code of Conduct for Property Factors (“the Code”) as required by section 14(5) of that Act.
2. By decision of even date with this Notice, the Tribunal determined that the property factor has failed to satisfy the requirements of the proposed PFEO of 26th November 2018.
3. Therefore, the Tribunal makes the following PFEO:

Within 28 days of the communication of the PFEO to the factor, the factor must:

- (i) Pay compensation to the homeowner in the sum of £400 (Four hundred pounds) in respect of the time, distress and inconvenience occasioned by the factor's failure to comply with their duties under the Code.
- (ii) Reimburse to the homeowner the sum of £606.12 (Six hundred and six pounds and twelve pence) being the balance on his factoring account as at 1st October 2018.

Failure to comply with a PFEO may have serious consequences and may constitute a criminal offence.

Appeals

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 within 30 days of the date the decision was sent to them.

S Sweeney

Simone Sweeney, Legal member, 19th December 2018.