

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(2)(a)

Chamber Ref: FTS/HPC/PF/19/0970

Re : The Fairways, Flat 6, 823 Clarkston Road, Glasgow G44 3UZ ("Property")

The Parties:-

Geraldine Stewart, The Fairways, Flat 6, 823 Clarkston Road, Glasgow G44 3UZ ("Homeowner")

Sonya Bader, 3 Bishops Gate, Wellknowe Avenue, Thorntonhall, Glasgow G74 5AR ("Homeowner's Representative")

McCarthy & Stone, Retirement Lifestyles Limited, 4th Floor, 100 Holdenhurst Road, Bournemouth, Dorset BH8 8AQ ("Factor")

Tribunal Members:

Joan Devine – Chairing and Legal Member

Mary Lyden – Ordinary Member

This document should be read in conjunction with the First-tier Tribunal's Decision of 11 July 2019.

Decision

The First-tier Tribunal has decided that it should make a Property Factor Enforcement Order ("PFEO") in the terms originally proposed by it.

The decision of the Tribunal is unanimous.

Reasons for Decision

In the Tribunal's decision of 11 July 2019, it proposed to make a PFEO as follows :

The Factor will pay to the Homeowner within 21 days of the date of service this order the sum of Two Hundred and Fifty Pounds (£250) from their own funds and at no cost to the homeowners within the Development at The Fairways in order to compensate the Homeowner for the distress caused as a result of the Factor's failure to comply with the Property Factors Code of Conduct.

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 Tribunal's decision was intimated to the parties on 17 July 2019. There were no representations received. The Tribunal therefore confirm the decision made in terms of Section 19(1) (a) on 11 July 2019.

Property Factor Enforcement Order

The First-tier Tribunal hereby makes the following PFEO:

The Factor will pay to the Homeowner within 21 days of the date of service this order the sum of Two Hundred and Fifty Pounds (£250) from their own funds and at no cost to the homeowners within the Development at The Fairways in order to compensate the Homeowner for the distress caused as a result of the Factor's failure to comply with the Property Factors Code of Conduct.

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.

Legal Member and Chair

Date