

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

Chamber Ref: FTS/HPC/PF/18/1769

Flat 0/1, 56 Minerva Way, Glasgow G3 8GA ("The Property")

The Parties:-

Miss Saira Akbar residing at Flat 0/1, 56 Minerva Way, Glasgow, G3 8GQ ("the Applicant")

Park Property Management Limited, a company incorporated under the Companies Acts (Company Number SC413993) and having their Registered Office at 11 Somerset Place, Glasgow, G3 7JT ("the Respondent")

Tribunal Members:

Ewan Miller (Legal Member)

David Godfrey (Ordinary Member)

This document should be read in conjunction with the First-tier Tribunal's Decision of 4 February 2019.

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 4 February 2019, it proposed to make a PFEО as follows:

1. Within 30 days of service of the PFEО on the Respondent, the Respondent shall reimburse the Applicant all property management fees levied by the Respondent against the Applicant's account from 3 March 2018 until 7 December 2018.
2. Within 30 days of service of the PFEО on the Respondent, the Respondent shall obtain a report from a suitably qualified engineer on the condition of the security monitoring system at the larger development of which the Property forms part and shall carry out any works recommended by such report, subject always to obtaining any required authority from other proprietors within the development.

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 Act.

The Tribunal's decision was intimated to the parties on 5 February 2019.

No responses were received in response to the proposed PFEO. The Respondent did, however, seek leave to appeal the decision of the Tribunal to the Upper Tribunal. After consideration the Tribunal granted leave to appeal. However, the Tribunal were, in due course, advised that no such appeal had been made. In the absence of both the appeal being lodged and any submissions on the terms of the proposed PFEO, the Tribunal was satisfied to proceed with the PFEO as originally envisaged.

Property Factor Enforcement Order

The First-tier Tribunal hereby makes the following PFEO:

1. Within 30 days of service of the PFEO on the Respondent, the Respondent shall reimburse the Applicant all property management fees levied by the Respondent against the Applicant's account from 3 March 2018 until 7 December 2018.
2. Within 30 days of service of the PFEO on the Respondent, the Respondent shall obtain a report from a suitably qualified engineer on the condition of the security monitoring system at the larger development of which the Property forms part and shall carry out any works recommended by such report, subject always to obtaining any required authority from other proprietors within the development.

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.

E Miller

Legal Member and Chair

10/7/2019

Date