

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(2)

Chamber Ref: FTS/HPC/PF/19/3547

5/5 72 Lancefield Quay, Glasgow G3 8JF
("the Property")

The Parties:-

Mr Calum Mortimer, 5/5 72 Lancefield Quay, Glasgow G3 8JF
("the Homeowner")

MXM Property Solutions Ltd, Unit 13, 42 Dalsetter Avenue, Glasgow G15 8TE
("the Factor")

Tribunal Members:
Graham Harding (Legal Member)
Ahsan Khan (Ordinary Member)

This document should be read in conjunction with the First-tier Tribunal's Decision of the same date.

The First-tier Tribunal proposes to make the following Property Factor Enforcement Order ("PFEO"):

- (1) That by 31 March 2020 the Factor issue the Homeowner with an invoice in respect of all sums due by him in respect of common maintenance charges for the property to 29 February 2020.
- (2) That in future the Factor issue quarterly invoices for any maintenance charges due by the Homeowner not previously invoiced.
- (3) That in future any monthly invoice issued by the Factor to the Homeowner includes any outstanding sums due in respect of common service charges and common maintenance charges or any other charges due together with any credits.
- (4) That within a period of two months the Factor provides the Tribunal with a written statement as to how it intends to comply in the future with the terms of Clause 5.5 of the Constitutive Deed of Community Burdens affecting the Property or evidence that the said deed has been varied.
- (5) In respect of its failures of its property factors duties and breaches of the Code and in respect of the trouble, worry and substantial inconvenience

caused to the Homeowner pay him the sum of £200.00 from its own funds and that within a period of 28 days.

Section 19 of the 2011 Act provides as follows:

"(2) In any case where the First-tier Tribunal proposes to make a property factor enforcement order, it must before doing so—

(a) give notice of the proposal to the property factor, and

(b) allow the parties an opportunity to make representations to it.

(3) If the First-tier Tribunal is satisfied, after taking account of any representations made under subsection (2)(b), that the property factor has failed to carry out the property factor's duties or, as the case may be, to comply with the section 14 duty, the First-tier Tribunal must make a property factor enforcement order."

The intimation of the First-tier Tribunal's Decision and this proposed PFEO to the parties should be taken as notice for the purposes of section 19(2)(a) and parties are hereby given notice that they should ensure that any written representations which they wish to make under section 19(2)(b) reach the First-tier Tribunal by no later than 14 days after the date that the Decision and this proposed PFEO is sent to them by the First-tier Tribunal. If no representations are received within that timescale, then the First-tier Tribunal is likely to proceed to make a property factor enforcement order without seeking further representations from the parties.

Failure to comply with a PFEO has serious consequences and may constitute an offence.

Legal Member and Chair

8 March 2020

Date