



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

In an Application under section 17 of the Property Factors (Scotland) Act 2011

by

Stuart Barnett, 3 Linnet Drive, Woodilee, Glasgow G66 3DG (“the Applicant”)

RMG Scotland, Unit 6, 95 Morrison Street, Glasgow G5 8BE (“the Respondent”)

**Re: Property at 3 Linnet Drive, Woodilee, Glasgow G66 3DG
 (“the Property”)**

Chamber Ref: FTS/HPC/PF/23/1960

Tribunal Members:

John McHugh (Chairman) and Elizabeth Dickson (Ordinary (Housing) Member).

DECISION

The Tribunal makes a property factor enforcement order in the terms originally proposed.

Our decision is unanimous.

REASONS FOR DECISION

In our Decision of 27 January 2025 we indicated that we proposed to make a property factor enforcement order (“PFEO”) and a copy of the Proposed PFEO was provided. We indicated that, prior to making a property factor enforcement order, we would provide the parties with a period of fourteen days within which to make representations under section 19(2)(b) of the Act.

The Decision and Proposed PFEO were issued to the parties on 3 February 2025.

No representations have been received from the Applicant. On 25 February 2025, the Respondent emailed the Tribunal with a request that the Decision be reviewed.

The Respondent’s representations were directed towards the terms of the PFEO rather than the Decision itself. The Respondent indicated that it would accept a liability to pay that part of the sum awarded to the Applicant in respect of court fees relating to his having to deal with the court action raised against him by the Respondent but not the element of the Proposed PFEO relating to the adverse credit effect upon him of the court decree. That is on the basis that the Respondent considers that any adverse effect after March 2023 was something which the Applicant would have been able to alleviate himself by recalling the decree.

As a result of its content, we are of the view that the Applicant’s application of 25 February 2025 is intended to be a representation upon the terms of the Proposed PFEO as opposed to a request for review of the Decision. We have however also considered the Application as being an application for review and have issued a separate Decision dealing with it.

Regardless of whether the 25 February application is treated as an application for review or as a representation concerning the terms of the Proposed PFEO, the time limit for making either is 14 days. The application is therefore late.

The time limit for commenting upon the Proposed PFEO is contained within the document itself as well as in the Tribunal's email attaching the Decision and Proposed PFEO.

In the circumstances, the Respondent ought to have been aware of the applicable time limit.

The application of 25 February 2025 contains no acknowledgement of the fact of its lateness nor any explanation for the lateness nor any request for the Tribunal to consider the request although late.

We see no reason to exercise any discretion available to us to consider the application although late. It is in the interests of justice that representations are made promptly and within the defined time limits.

We therefore decline to take into account the terms of the application in considering the terms of the PFEO.

Accordingly, we have decided to issue the PFEO in the form previously intimated.

It is observed that, even if timeous, the content of the application was entirely misconceived in that the Respondent invites the Tribunal not to take into account the Applicant's situation after March/May 2023. That is precisely what the Tribunal's Decision already does (see foot of p9 of the Decision). On that basis, we would have given no weight to the representations on the terms of the PFEO even if lateness had not been an issue.

Property Factor Enforcement Order

We hereby make the following Property Factor Enforcement Order ("PFEO"):

"Within 31 days of the date of the communication to the Respondent of this property factor enforcement order, the Respondent must:

- 1 Pay to the Applicant the sum of £1220, such sum to be by cheque or bank transfer as opposed to by credit to his factoring account.*
- 2 Confirm in writing to the office of the Tribunal that step 1 above has been carried out."*

Failure to comply with a property factor enforcement order may have serious consequences and may constitute an 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 to appeal within 30 days of the date the decision was sent to them.

Signed

Date 7 March 2024

JOHN M MCHUGH

Chairperson