



Notice of Property Factor Enforcement Order

hohp Ref: HOHP/PF/14/0024

Re: Property at Flat 1/1, 183 Craighall Road, Glasgow, G4 9TN (collectively “the Property”)

The Parties:-

Mr Emmanuel Egbuka, 1/1, 183 Craighall Road, Glasgow, G4 9TN (“the Applicant”)

Grant & Wilson Property Management Ltd, 65 Greendyke Street, Glasgow, G1 5PX (“the Respondent”)

Decision by a Committee of the Homeowner Housing Panel in an application under section 17 of the Property Factors (Scotland) Act 2011

Committee Members:

Maurice O'Carroll (Chairman) and Carolyn Hirst (Housing Member)

This Notice should be read in conjunction with the Decision of even date under reference HOHP/PF/14/0024

1. By decision of even date with this Notice, the Committee determined that the Respondent had breached its duties in terms of s 17(1)(b) of the 2011 Act in that it had failed to comply with sections 2.1, 2.5, 5.2 and 5.5 of the Code of Conduct for Property Factors as required by s 14(5) of that Act. It also determined that the Respondent had breached its duties in terms of s 17(1)(a) of the 2011 Act in that it had failed properly to communicate with the Applicant and to supply him with the information which he requested by email dated 27 November 2012 and on subsequent dates.
2. In accordance with s 19(3) of the 2011 Act, having been satisfied that the respondent has failed to carry out the property factor duties, the Committee must make a Property Factor Enforcement Order. Before making an Order, to comply with s 19(2) of the Act, the Committee before proposing an Order must give notice of the proposal to the factor and must allow the parties an opportunity to give representations to the Committee.
3. The intimation of this Notice of Property Factor Enforcement Order to the parties should be taken as notice for the purposes of s 19(2)(a) and the parties are hereby given notice that they should ensure that any written representations

which they wish to make under s 19(2)(b) must reach the Homeowner Housing Panel's office by no later than 14 days after the date the decision is intimated to them.

4. If no representations are received within that timescale, then the committee will proceed to make a Property Factor Enforcement Order in the following terms without seeking further representations from the parties.
5. Therefore, the Committee propose to make the following Property Factor Enforcement Order:

Within 28 days of the communication to the respondent of the Property Factor Enforcement Order (unless otherwise provided), the respondent must:

1. Provide the Applicant with copies of all receipts and vouchings which underlie the charges contained in the quarterly invoices sent to the Homeowner on 23 August and 21 November, both 2012 under reference numbers 633165 and 644797 respectively.
2. Provide the Applicant with a copy of the insurance claim form sent to the insurers of the common property on behalf of the Applicant in respect of water ingress damage to the Applicant's property during 2012, together with a response to that claim made by the common insurers under the applicable insurance policy. For the avoidance of doubt, the application and response require to be supplied in full and not by way of extracted excerpt.
3. Ensure that it has a system in place (whether as part of its internal procedures, in co-operation with its appointed insurers or otherwise as necessary) whereby homeowners are able to pursue insurance claims directly themselves should they wish to, with the Respondent providing all of the necessary information to facilitate that course of action if desired pursuant to Section 5.4 of the Code.
4. Make payment to the Applicant of the sum of £250 in recognition of the inconvenience and distress that the Respondent's breaches of the Code and factor's duties have caused to the Applicant.
5. Forthwith and no later than within 7 days make payment of the sum of £974 to the Applicant in respect of his insurance claim for the damage to his property during 2012.
6. Provide documentary evidence of compliance to the Homeowner Housing Panel with the above Orders within 7 days of having done so by recorded delivery post.

6. **Appeals**

The parties' attention is drawn to the terms of s 22 of the 2011 Act regarding their right to appeal and the time limit for doing so. It provides "(1) An appeal on a point of law only may be made by summary application to the Sheriff against a decision of the president of the Homeowner Housing Panel or a Homeowner Housing Committee; (2) An appeal under subsection (1) must be made within the period of 21 days beginning with the date on which the decision appealed against is made..."

Signed
Maurice O'Carroll
Chairperson

Date 10 June 2014