



Notice of Property Factor Enforcement Order

Hohp Ref: HOHP/PF/15/0122

Re:

Property at Flat 1/1, 26 Sword Street, Dennistoun, Glasgow G31 1TD (“the Property”)

The Parties:-

Mr James Williamson, residing at the Property (“the Homeowner”)

and

Charles White Limited, Citypoint, 65 Haymarket Terrace, Edinburgh, EH12 5HD (“the Factors”)

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)
Sally Wainwright (Housing Member)

This Notice should be read in conjunction with the Decision of even date under reference HOHP/PF/15/0122

1. By decision of even date with this Notice, the Committee determined that the Factors had breached their duties in terms of s 17(1)(b) of the 2011 Act in that they had failed to comply with sections 2.5 and 7.2 of the Code of Conduct for Property Factors as required by s 14(5) of that Act. It also found that they had breached their duties in terms of s 17(1)(a) of the 2011 Act in that they had failed to comply with their property factor duties generally.
2. In accordance with s 19(3) of the 2011 Act, having been satisfied that the Factors have 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 section 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 proposes to make the following Property Factor Enforcement Order:

Within 28 days of the communication to the respondent of the Property Factor Enforcement Order, the Factors must:

1. Make payment to the Homeowner of the sum of £250 in recognition of the time spent and inconvenience that the Factors' breaches of the Code and factor duties have caused to the Homeowner.
2. Reimburse the management fees paid by the Homeowner to the Factors during the two year period from June 2013 to the cessation of its services on 31 May 2015 in recognition of its failure to comply with its factor duties during that period.
3. Reimburse the over-payment of electricity charges over the said period amounting to £200.
4. Reimburse the late payment fee of £98 added to the Homeowner's account and also the fee for £132 added in respect of the Notice of Potential Liability registered over the Homeowner's Property.
5. At its own expense, carry out all steps necessary to draft and register with the Registers of Scotland a non-statutory discharge or letter in unambiguous terms, discharging in full the alleged obligation underlying the extant Notice of Potential Liability registered against the Homeowner's Property.
6. Provide the Homeowner with a final account showing the above payments and reimbursements as having been credited to him and at the same time make payment of any surplus sums due to him following upon such final account.
7. 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

M O'Carroll
Chairperson

Date 28 December 2015