



Notice of Property Factor Enforcement Order

Hohp Ref: HOHP/PF/14/0140

Re:

**Property at Flat 1/1, 11 Rhindmuir Gate, Baillieston, Glasgow, G69 6EW
("the Property")**

The Parties:-

Mr Desmond Mowat, residing at the Property ("the Homeowner")

**First Stop Properties Limited, trading as Pfams, 37 Cadzow Street, Hamilton, ML3 6EE
("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)
Elaine Munroe (Housing Member)

**This Notice should be read in conjunction with the decision of even date under
reference HOHP/PF/14/0140**

1. By decision of even date with this Notice, the Committee determined that the Factors had breached their duties in terms of section 17(1)(b) of the 2011 Act in that they had failed to comply with Sections 3.3, 4.6, 4.8, 4.9, 6.1 and 6.4 of the Code of Conduct for Property Factors as required by s 14(5) of that Act.
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 section 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 ("PFEO") in the following terms without seeking further representations from the parties.
5. Therefore, the Committee proposes to make the following PFEO:

Within 28 days of the communication to the Factors 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, distress and inconvenience that the Factors' breaches of the Code have caused to the Homeowner.
2. Reimburse the management fees (equating to £10 per month) paid by the Homeowner to the Factors during the period from its date of registration of 8 January 2013 to the cessation of its services on 30 September 2014 in recognition of its failure to comply with its factor duties during that period.
3. Provide a full and complete reconciliation of payments made by the Homeowner to date against his outstanding factoring fee debt incurred during the period in which the Factors provided factoring services to the Homeowner, failing which reimburse him the whole sum of £400 in respect of debt repayments not accounted for.
4. Reimburse to the Homeowner the whole sum of £132 being the charge levied in terms of invoice number PF18524 dated 25 July 2014 in respect of the Notice of Potential Liability registered against the Property contrary to the requirements of the Code.
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. Once the payments above mentioned have been set against the factoring debt due to the Factors, provide the Homeowner with a refund of all debt repayments made further to the factoring debt payment plan referred to in the said decision from the date of the hearing, 9 July 2015. Said payment to be made in full and free of any deductions made in respect of collection charges or any other expenses.
7. Following compliance with the above requirement, provide the Homeowner with an account statement showing all debt arrears to have been cleared and

the resulting amount to be paid to him following upon implementation of the foregoing in terms of this PFEO.

8. 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 31 July 2015