

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Certificate of Compliance with the Property Factor Enforcement Order (“PFEO”) dated 14 December 2020.

Case Reference: FTS/HPC/PF/19/3303

10 Dudley Drive, Glasgow, G12 9SB (“the Property”)

The Parties:

John Dunn, 10 Dudley Drive, Glasgow, G12 9SB (“the Homeowner”)

W. M. Cumming, Turner and Watt, 40 Carlton Place, Glasgow G5 9TS (“the Property Factor”)

Tribunal Members:

Josephine Bonnar (Legal Member)

Andrew McFarlane (Ordinary Member)

DECISION

The Tribunal, having determined that the PFEO dated 14 December 2020 relating to the property has been complied with, certifies that the Property Factor has complied with the PFEO.

The decision of the Tribunal is unanimous.

Background

1. On 14 December 2020, the Tribunal issued a PFEO in the following terms: -
 - (i) The Tribunal order the Property Factor to pay to the Homeowner the sum of £400 for his time, effort, and inconvenience, within 28 days of intimation of the PFEO. This payment is to be made by cheque or bank transfer and not as a credit on the Homeowner’s factoring account.
 - (ii) The Tribunal order the Property Factor to issue a letter of apology to the Homeowner for their failure to respond to the Homeowner’s enquiries and complaints, within 28 days of intimation of the PFEO.

2. The PFEO was issued to the parties. Following expiry of the time limit for compliance, the Tribunal contacted the parties to ask whether the Property Factor had complied with the PFEO. On 25 January 2021, the Homeowner notified the Tribunal that the Property Factor had not complied with the PFEO. A further letter was issued to the parties regarding compliance with the Order. On 23 February 2021, the Homeowner notified the Tribunal that there had been no contact from the Property Factor and that he had not received a letter of apology or payment of the compensation. The Property Factor did not respond to either letter from the Tribunal.
3. On 3 March 2021, the Tribunal determined that the Property Factor had failed to comply with the PFEO. A written decision with statement of reasons was issued to the parties.
4. On 24 March 2020, the Tribunal received a letter from the Property Factor which stated that a cheque for £400 and a letter of apology had been sent to the Homeowner. The letter also stated that the delay in compliance with the PFEO was due to the impact of the Pandemic on the operation of the business, in particular the fact that staff are working from home. On 29 March 2021, the Homeowner confirmed by email that the cheque and letter of apology had been received.

Reasons for Decision

5. The Tribunal notes that the Property Factor failed to respond to letters from the Tribunal regarding compliance with the PFEO. The Homeowner confirmed on 25 January and 23 February 2021 that the Property Factor had not contacted him and has not complied with the PFEO. As a result, the Tribunal determined that the Property Factor had failed to comply with the order.
6. The Tribunal is satisfied that the Property Factor has now complied with the order by paying the compensation specified in the order and issuing a letter of apology. They did not do this within the time period specified by the Tribunal in the PFEO. However, the Tribunal notes that the Property Factor, like many other businesses, has been affected by the Government restrictions imposed because of the pandemic. The Tribunal therefore determines that the PFEO should be varied in terms of Section 21 of the Property Factor (Scotland) Act 2011 Act, by extending the time for completion of the order until 30 March 2021. The Tribunal is satisfied that the Property Factor has complied with the PFEO, as varied.

Decision

7. The Tribunal determines that the Property Factor has complied with the PFEO dated 14 December 2020.

Appeals

A homeowner or property factor 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.

Josephine Bonnar
Legal Member and Chair
13 April 2021