

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Decision and Certificate of Compliance with Property Factors Enforcement Order (PFEO) under Section 20 of the Property Factors (Scotland) Act 2011 (Act)

Chamber Ref: FTS/HPC/PF/20/1457

The Parties:-

Miss Carla McLay, 10/6 Kilinside Road, Paisley (“the Homeowner”)

Hacking and Paterson Management Services, 1 Newton Terrace, Glasgow, G3 7PL (“the Factor”)

The Tribunal:-

Melanie Barbour (Legal Member)
Angus Anderson (Ordinary Member)

Decision

The First-Tier Tribunal for Scotland (Housing and Property Chamber) (Tribunal) having determined that the Property Factor has complied with the Property Factors Enforcement Order (PFEO) dated 30 December 2020, hereby certifies that the Property Factor has complied with the PFEO.

Reasons for Decision

1. In terms of the Tribunal’s decision of 9 November 2020, it proposed to make a PFEO as follows: Within a period of two months from the date of the PFEO the Factor must: (1) From their own funds credit the homeowner’s common charges account with the sum of £300.00; (2) Delete from the Homeowner’s account their management fee of £39.25 plus vat for the period 29/02/2020-28/05/2020; (3) Agree a repayment plan with the homeowner in relation to the common charges which accrued from April 2019 until May 2020; the terms of repayment schedule to be agreed shall permit (if required by the homeowner) a repayment period of up to 12 months; and (4) Provide to the Tribunal written confirmation that items (1) and (2) have been completed.

2. By email dated 17 November 2020 the Factor wrote confirming that they had credited the Homeowner's common charges account with the sums of £47.10 in respect of the management fee payable from the date of entry until 28 May 2020; and the sum of £300 from HPMS funds. Further, they had written to the Homeowner confirming these payments had been made and offering to agree a repayment plan for the remaining factoring balance over a 12 onths period. They attached a copy of the letter which they had issued to the Homeowner. There had been no written representations from the Homeowner.
3. Given the correspondence from the Property Factor the Tribunal considered that it should vary the terms of the PFEO. On 30 December 2020 the Tribunal made the following PFEO: Within a period of two months from the date of the PFEO the Factor must: Seek to agree a repayment plan with the homeowner in relation to the common charges which accrued from April 2019 until May 2020; the terms of the repayment schedule to be agreed shall permit (if required by the homeowner) a repayment period of up to 12 months.
4. On 5 January 2021 the Homeowner confirmed by email that the Property Factor had complied with the terms of the PFEO.
5. Accordingly, the Tribunal determines that the PFEO had been complied with.

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.

Melanie Barbour

Legal Member and Chair

7 January 2021