

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Decision Property Factors (Scotland) Act 2011: Section 19.

**Chamber Ref: FTS/HPC/PF/21/0183
FTS/HPC/LM/21/0786**

Re: Property at House G Eastwood Court, 2B Crosslees Drive, Thornliebank, G46 7RS (“the First Property”) and

Property at House 4 D Crosslees Court, Crosslees Drive, Thornliebank, Glasgow G46 7RT (“the Second Property”)

The Parties:

Mr Adam Moad, 48 Glenmill Avenue, Darnley, Glasgow, G53 7XF (“the First Applicant” and “Mr Moad”)

Ms Maureen McAlpine, 32 Orchard Drive, Glasgow G46 7NU (“the Second Applicant” and “Ms McAlpine”)

East Renfrewshire Council, Housing Services, 211 Main Street, Barrhead, East Renfrewshire, G78 1SY (“the Respondent”)

Tribunal Members:

**Martin McAllister (Legal Member)
Helen Barclay (Ordinary Member)**

1. Background

These are applications made by the First and Second Applicants in relation to the actions of the Respondent in its capacity as property factor of the development in which both properties are situated. The First Property is owned by the First Applicant which he purchased in December 2017. The Second Property is owned by the Second Applicant which she purchased in March 2018.

Both applications relate to alleged breaches of the Property Factors (Scotland) Act 2011 Code of Conduct for Property Factors (“the Code”) and failure to comply with the property factor’s duties in terms of the Act.

On 26th September 2021 the Tribunal made a Decision which was issued to the parties on 1st October 2021. A proposed Property Factor Enforcement Order was issued to the parties on the same date.

2. Proposed Property Enforcement Order

The Respondent is to pay the sum of £2,500 to each of the applicants. Payment is to be effected by the Respondent reducing the sum due by each applicant in respect of the current contract for the repair and partial reconstruction of the common wall at Crosslees Drive, Thornliebank, Glasgow.

3. Representations

The terms of the proposed factor enforcement order were intimated to the parties who were invited to make representations.

Neither Applicant made representations on the terms of the proposed property factor enforcement order.

On 11th October 2021, the Respondent submitted an email to the Tribunal indicating that it accepts the terms of the proposed property factor enforcement order.

4. Determination on the making of a property factor enforcement order.

Section 19 (3) of the Property Factors (Scotland) Act 2011 states:

“If the Tribunal is satisfied, after taking account of any representations made under subsection (2)(b), that the property factor has failed to carry out the property factor’s duties or, as the case may be, to comply with the section 14 duty, the Tribunal must make a property factor enforcement order.”

The tribunal determined that it was appropriate to make a property factor enforcement order in terms of the proposed property factor enforcement order and made the order as follows:

The Respondent is to pay the sum of £2,500 to each of the applicants. Payment is to be effected by the Respondent reducing the sum due by each applicant in respect of the current contract for the repair and partial reconstruction of the common wall at Crosslees Drive, Thornliebank, Glasgow.

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.

Martin J. McAllister, Legal Member
of the First-tier Tribunal for Scotland
1st November 2021