

Housing and Property Chamber

First-tier Tribunal for Scotland



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

**Statement of Decision of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 23 of the
Property Factors (Scotland) Act 2011**

**Property Factors (Scotland) Act 2011 (“the Act”)
Property Factor Enforcement Order (“PFE0”) Section 23
The First-tier Tribunal for Scotland, Housing and Property
Chamber (Rules of Procedure) Amendment Regulations 2017
 (“the regulations”)**

**Chamber Ref: FTS/HPC/PF/21/0425 FTS/HPC/PF/21/0379 FTS/HPC/PF/21/0403
FTS/HPC/PF/21/0398 FTS/HPC/PF/21/0424 FTS/HPC/PF/21/0510**

The Properties:

**37B Garry Drive, Foxbar, Paisley, PA2 9BX
37A Garry Drive, Foxbar, Paisley, PA2 9BX
41D Garry Drive, Foxbar, Paisley, PA2 9BX
35E Garry Drive, Foxbar, Paisley, PA2 9BX
37D Garry Drive, Foxbar, Paisley, PA2 9BX
35D Garry Drive, Foxbar, Paisley, PA2 9BX**

(“The Properties”)

The Parties:-

**Michelle Devoy, residing at 37B Garry Drive, Foxbar, Paisley, PA2 9BX
Diane Burgess, residing at 37A Garry Drive, Foxbar, Paisley, PA2 9BX
Helen Coulter, residing at 41D Garry Drive, Foxbar, Paisley, PA2 9BX
Elbarsri Simari, residing at 35E Garry Drive, Foxbar, Paisley, PA2 9BX
Catherine Urquhart, residing at 37D Garry Drive, Foxbar, Paisley, PA2 9BX
Irina Delibozova residing at 35D Garry Drive, Foxbar, Paisley, PA2 9BX**

(“the Applicants”)

**Miller Property Management Ltd, a company incorporated under the
Companies Acts and having a place of business at Suite 2/2, Waverley House,
Caird Park, Hamilton, ML3 0QA**

(“The Factor”)

Tribunal Members:

**Graham Harding (Legal Member)
Robert Buchan (Ordinary Member)**

DECISION

The Tribunal determines that the property factor has failed to comply with the Property Factor Enforcement Order (“PFEO”) of 3 August 2022 in terms of section 23 of the Act and proceeds to serve notice of the failure on the Scottish Ministers.

Background

1. Reference is made to earlier procedure. In particular, reference is made to the decision and Property Factor Enforcement Order (“PFEO”) of the Tribunal dated 3 August 2022.

2. The PFEO was in the following terms:

- (1) The Factor shall prepare a schedule of proposed staff training by an outside third party not employed by the Factor to ensure that all staff are fully aware of the respondent’s obligations:
to have detailed knowledge of the terms of the Code of Practice for Property Factors and to ensure that they comply with it;
to comply with their duties arising from the Deed of Conditions;
to ensure adequate customer relations and to communicate effectively;
to ensure all staff are fully aware of the respondent’s complaints procedure and when to implement this;
including details of the provider of the training and timescales for the provision of delivery of the training to be provided to the Tribunal for their approval.
- (2) The Factor must issue an invoice to each Applicant (with the exception of Ms Burgess and Ms Urquhart) removing the apportionment of outstanding debt amounting to £189.00 per property.
- (3) The Factor must organise a meeting with all owners at the development with an agenda circulated in advance and with the intention of resolving all outstanding issues and agreeing the future management of the development.
- (4) The Factor shall refer itself to the Information Commissioner’s Office for it to determine if the Factor was in breach of General Data Protection Regulations by disclosing the non-paying owners’ names, addresses and sums owed to the other owners and report the ICO findings to the Tribunal and the non-paying owners on receipt.

The Factor shall confirm to the Tribunal that it has complied with the foregoing in writing within a period of 28 days from the date of service of the PFEO.

3. The PFEO and decision of 3 August 2022 were issued to parties by email and post. The consequences for the Factor, should he fail to comply with the terms of the PFEO, were set out within the document.

4. The Factor sought permission to appeal the Tribunal's decision in correspondence dated 12 October 2022. The Tribunal refused the Factor's application in its decision dated 18 October 2022.

5. The Factor has failed to comply with the terms of the PFEO. Accordingly, the Tribunal proceeds to serve notice of the property factor's failure on the Scottish Ministers.

Right of Appeal

A party 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.



Graham Harding Legal Member

06 February 2023 Date