

Housing and Property Chamber First-tier Tribunal for Scotland



The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”)
Property Factors (Scotland) Act 2011 (“the Act”)
Property Factor Enforcement Order (“PFEO”) Section 19

Chamber Ref: FTS/HPC/PF/20/1983

Re.: Flat 34, Morningside View, 14 Maxwell Street, Edinburgh, EH10 5HU (“the property”)

The Parties: -

Mr James Whyte, Flat 34, Morningside View, 14 Maxwell Street, Edinburgh, EH10 5HU
 (“the homeowner”)

First Port Property Services Scotland, Troon House, 3rd Floor, 199 St Vincent Street, Glasgow,
G2 5QD (“the property factor”)

Tribunal Members: - Simone Sweeney (Legal Member) Elizabeth Dickson (Ordinary
Member)

Decision

Having determined that the property factor has failed to comply with sections 1 C e, 2.1 and 2.5 of the Code of Conduct for Property Factors (“the Code”) as required by section 14 of the Act and the Property Factor’s duties as required by section 17 (1) (a) of the Act, the Tribunal makes a property factor enforcement order (“PFEO”) in terms of section 19 (1) (b) of the Act. The decision of the Tribunal is unanimous.

Reasons for decision

1. Reference is made to previous procedure and the decision and proposed PFEO of the Tribunal of 5th September 2021. The decision and proposed PFEO were issued to parties. Parties were given notice of the proposed PFEO and provided an opportunity to make representations in terms of section 19 (2) of the Act.

2. No representations have been received from the property factor.
3. Representations received from the homeowner sought request for review. This resulted in the Tribunal's decision of 30th October 2021. Reference is made to the terms of that decision.
4. That procedure having now come to an end, the Tribunal is satisfied that the property factor has failed to carry out the property factor's duties and to comply with the section 14 duty. Accordingly the Tribunal must make a PFEO in terms of section 19 (3) of the Act.
5. The PFEO is in the following terms:-

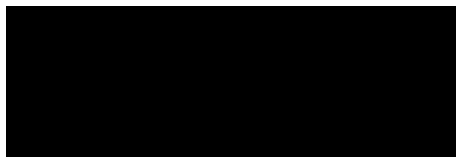
Within 28 days from the date of issue of this order, for the property factor to:-

- *provide to the homeowner payment of £500 by way of compensation for the failure to comply with sections 1 C e, 2.1 and 2.5 of the Code and Property Factor's duties as required by section 17 (1) (a) of the Act and in recognition of the time, preparation and inconvenience the homeowner has expended in having to bring this application.*
- *produce evidence of same to the Tribunal's administration.*

Failure to comply with a PFEO may have serious consequences and may constitute a criminal offence.

Appeals

6. In terms of section 46 of the Tribunals (Scotland) Act 2014, 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 within 30 days of the date the decision was sent to them.



Legal Member, at Glasgow on 10th December 2021