

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Property Factor Enforcement Order (“PFEO”): Property Factors (Scotland) Act 2011 Section 19(3)

Chamber Ref: FTS/HPC/PF/21/1295

17K Blairmore Road, Greenock, PA15 3JT (“the Property”)

Parties:

Mrs Jenny Buckley, 17K Blairmore Road, Greenock, PA15 3JT (“the Homeowner”)

River Clyde Homes, Clyde View, 22 Pottery Street, Greenock, PA15 2UZ (“the Property Factor”)

Tribunal Members:

Mrs Josephine Bonnar (Legal Member)

Ms Carol Jones (Ordinary Member)

This document should be read in conjunction with the First-tier Tribunal’s Decision of 3 December 2021.

Decision

The Tribunal has decided that it should make a PFEO in the terms originally proposed by it.

The decision of the Tribunal is unanimous.

Reasons for decision

In the Tribunal’s decision of 3 December 2021, it proposed to make a PFEO as follows:

- (1) The Tribunal order the Property Factor to pay to the Homeowner the sum of £500 for her time, effort, and inconvenience, within 28 days of intimation of the

PFEO.

- (2) The Tribunal order the Property Factor to issue a letter of apology to the Homeowner for their failure to comply with Sections 2.4 and 2.5 of the Code, within 28 days of intimation of the PFEO.
- (3) The Tribunal order the Property Factor to provide the Homeowner with full details of the consultation procedure which will be followed in connection with future repair work at the property, within 3 months of intimation of the PFEO.

The Tribunal indicated that prior to making a PFEO, it would provide the parties with the opportunity to make representations under section 19(2)(b) of the Act.

The Tribunal's decision was intimated to the parties. The Homeowner submitted a request for a review of the decision in terms of Rule 39. On 31 January 2022, the Tribunal refused to review the decision and issued a decision with statement of reasons to that effect. The parties were provided with a further 7 days to make representations regarding the proposed PFEO. The Property Factor did not lodge written representations. The Homeowner sent a letter to the Tribunal. The letter provides further comments on the decision on the application and the decision on the request for review but does not address the terms of the proposed PFEO. The Tribunal notes that neither party has raised any concerns regarding the terms of the PFEO.

The Tribunal determines that a PFEO should be issued in identical terms to the proposed PFEO.

Property Factor Enforcement Order

The First-tier Tribunal hereby makes the following PFEO:

- (1) The Tribunal order the Property Factor to pay to the Homeowner the sum of £500 for her time, effort, and inconvenience, within 28 days of intimation of the PFEO.
- (2) The Tribunal order the Property Factor to issue a letter of apology to the Homeowner for their failure to comply with Sections 2.4 and 2.5 of the Code, within 28 days of intimation of the PFEO.
- (3) The Tribunal order the Property Factor to provide the Homeowner with full details of the consultation procedure which will be followed in connection with future repair work at the property, within 3 months of intimation of the PFEO.

Under Section 24(1) of the Property Factors (Scotland) Act 2011, a person who, without reasonable excuse, fails to comply with a property factor enforcement order commits an offence.

Appeals

A homeowner or property factor aggrieved by a 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
15 February 2022