

Housing and Property Chamber
First-tier Tribunal for Scotland



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

Property Factor Enforcement Order following a Decision under Section 17 of the Property Factors (Scotland) Act 2011 (“the 2011 Act”)

Chamber Reference: FTS/HPC/PF/21/1864

Re the Property at 0/1 1840 Great Western Road, Anniesland, Glasgow, G13 2TN (“the Property”)

The Parties:

Craig McNicol, 61 Langdale Road, Sale, M33 4FL (“the Applicant”) and

Lowther Homes Limited, Wheatley House, 25 Cochrane Street, Glasgow, G1 1HL (“the Respondent”)

Tribunal Members:

G. McWilliams, Legal Member

D Godfrey, Ordinary Member

Background

1. The Tribunal determined by Decision, dated 22nd February 2022, that the Respondent had failed to comply with its duties under Section 14(5) of the 2011 Act in that it did not comply with Sections 2.1 and 2.5 of the Property Factors (Scotland) Act 2011 Code of Conduct for Property Factors (“the Code”). The Tribunal further determined to issue a Property Factor Enforcement Order (“PFEO”). The Tribunal gave notice to the parties, on 28th February 2022, that they proposed to issue a PFEO, in the following terms, and invited the parties to make representations within 14 days, in accordance with Section 19(2)(a) of the 2011 Act :-
 - i) The Respondent is to make a compensation payment to the Applicant, in the sum of £500.00, within 28 days of the date of issue of the PFEO; and
 - ii) The Respondent is to provide the Applicant with a written report from a suitable specialist, within 42 days of the date of issue of the PFEO, which confirms;
 - a) full details of all works done at the Property in July 2021, in respect of the rot outbreak there; and

- b) whether or not all of the rot, which was discovered, has been eradicated.
 - iii) The Respondent is to lodge a copy of the report, referred to above, with the Tribunal's office, also within 42 days of the date of issue of the PFEO.
2. The Respondent has not submitted any representations to the Tribunal. On 28th March 2022 the Applicant informed the Tribunal's office that he has not had any contact from the Respondent. In the circumstances the Tribunal makes the following PFEO;
- i) The Respondent is to make a compensation payment to the Applicant, in the sum of £500.00, within 28 days of the date of issue of the PFEO; and
 - ii) The Respondent is to provide the Applicant with a written report from a suitable specialist, within 42 days of the date of issue of the PFEO, which confirms;
 - a) full details of all works done at the Property in July 2021, in respect of the rot outbreak there; and
 - b) whether or not all of the rot, which was discovered, has been eradicated.
 - c) The Respondent is to lodge a copy of the report, referred to above, with the Tribunal's office, also within 42 days of the date of issue of the PFEO.

In terms of Section 24 (1) of the 2011 Act, a person/ body who, without reasonable excuse, fails to comply with a PFEO, commits an offence.

Appeal

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 from the First-tier Tribunal. That party must seek permission within thirty day of the date the Decision was sent to them.

**G McWilliams
Legal Member**

8th April 2022