

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/LM/21/0906

Property: Property at 15 McVicars Lane, Dundee DD1 4LH (the Property”)

Parties: Mr Sam Donaghey, 15 McVicars Lane, Dundee DD1 4LH (“the Applicant”)

and

J Reavley Factoring Ltd, 125 Nethergate, Dundee DD1 4DW (“the Respondent”)

Tribunal Members:

Mark Thorley (Legal Member)

Mary Lyden (Ordinary Member)

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 11 April 2022 it proposed to make a PFEO as follows:

1. That the factor is required to provide an accounting to the applicant of all charges made in connection with the applicant’s property and, subject to the said accounting, to repay any sums due to the applicant.
2. The factor is required to provide to the applicant such documents that exist establishing for the applicant the applicant’s financial and other responsibilities in connection with the walls and communal parking areas in respect of maintenance and repair by the applicant of said walls and communal parking areas.
3. The factor is required to pay the applicant within fourteen days of intimation to them of the PFEO the sum of £1,000 to compensate the applicant for the inconvenience caused as a result of the factor’s failure to carry out his property factor’s duties.
4. The factor is required to pay the applicant the sum of £200 in respect of expenses following upon the adjourned hearing on 25 January 2022.

The Tribunal indicated that prior to making a property factor enforcement order, it would provide the parties with a period of fourteen days within which to make representations under section 19(2)(b) of the Act.

The Tribunal's decision was intimated to the parties on 13 April 2022.

No representations were received by the factor. Further representations were received from the applicant.

Thereby the tribunal confirm the decision made in terms of Section 19(1) (a).

Property Factor Enforcement Order

The First-tier Tribunal hereby makes the following PFEO:

1. That the factor is required to provide an accounting to the applicant of all charges made in connection with the applicant's property and, subject to the said accounting, to repay any sums due to the applicant.
2. The factor is required to provide to the applicant such documents that exist establishing for the applicant the applicant's financial and other responsibilities in connection with the walls and communal parking areas in respect of maintenance and repair by the applicant of said walls and communal parking areas.
3. The factor is required to pay the applicant within fourteen days of intimation to them of the PFEO the sum of £1,000 to compensate the applicant for the inconvenience caused as a result of the factor's failure to carry out his property factor's duties.
4. The factor is required to pay the applicant the sum of £200 in respect of expenses following upon the adjourned hearing on 25 January 2022.

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 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.

_____ Legal Member and Chair

08 August 2022

_____ Date