

Housing and Property Chamber First-tier Tribunal for Scotland



Property Factor Enforcement Order under s19 (3) of the Property Factors (Scotland) Act 2011

Case reference: FTS/HPC/PF/21/0079

Re:- Flat 3/2 Eastfield Road, Springburn G21 1NF

The Parties:-

**Mrs Hazel Gibson, Flat 3/2 Eastfield Road, Springburn G21 1NF
("the Applicant")**

and

**James Gibb Residential Property Factors, 65 Greendyke Street, Glasgow
G1 5PX
("the Respondent")**

Tribunal Members:

Richard Mill (legal member) and Mr Andrew Taylor (ordinary member)

Decision

The Tribunal unanimously makes a Property Factor Enforcement Order in the following terms:

"Within 14 days of the date of service of this PFEO the respondent must issue an apology to the applicant and pay her the sum of £450 for breaching the Code"

Background

Following a hearing on 21 September 2021 the Tribunal unanimously determined that the respondent had failed to comply with sections 2.5, 5.5 and 6.1 of the Code of the Code of Conduct for Property Factors ("the Code"), and in all other respects had adhered to the Code. The Tribunal also unanimously determined that the respondent had complied with their property factor duties. A Property Factor Enforcement Order ("PFEO") was found to be necessary and the terms of the proposed PFEO were set out. Parties had 14 days to make submissions on the terms of the proposed PFEO.

Reasons for the PFEO

The Tribunal's decision dated 23 December 2021 was intimated to parties on 28 September 2021. The 14 day period for the parties making any relevant comments on the terms of the proposed PFEO expired on 12 October 2021.

By way of email dated 4 October 2021 the applicant reported that the Tribunal had erroneously found that the management charges payable found by the Tribunal to be per annum are, in fact, paid monthly. No comments on the terms of the proposed PFEO were made.

No comments on the terms of the proposed PFEO were received from the respondent.

The Tribunal subsequently received clarification from the respondent regarding the management charges. The management fee, as per the Development Schedule and as per the Tribunal's findings are £117 per annum (specifically £117.84). The applicant is paying £117 per month due to a historical shortfall. Her submissions are therefore erroneous.

Neither party has made any relevant comments in respect of the terms of the proposed PFEO as the Tribunal set out in their original decision. The sum of £450 which the respondent requires to pay to the applicant remains proportionate and fair as set out in the Tribunal's original decision.

Appeals

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 to appeal within 30 days of the date the decision was sent to them.

Legal Member: 

Date: 18 October 2021