

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/21/1132

Re: 23C Greenholme Street, Glasgow G44 4DU ("Property")

The Parties:-

David and Norma Grier, 23C Greenholme Street, Glasgow G44 4DU ("Homeowners")

Ross & Liddell Limited, 60 St Enoch Square, Glasgow G1 4AW ("Factor")

Tribunal Members:

Joan Devine – Chairing and Legal Member

Robert Buchan – Ordinary Member

This document should be read in conjunction with the First-tier Tribunal's Decision of 22 September 2021.

Decision

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

Reasons for Decision

In the Tribunal's decision of 22 September 2021 it proposed to make a PFEO as follows :

Within a period of three months from the date of service of this PFEO :

1. The Factor will provide to the Homeowners and to the Tribunal evidence that a procedure has been put in place to monitor cleaning of the Property by the provision of three consecutive months of screenshots of the Factor's portal showing date stamped photographs and work schedules submitted by the cleaners.
2. The Factor will provide to the Homeowners and to the Tribunal evidence of site inspection forms uploaded to the Factor's portal following an inspection of the Property
3. The Factor will pay to the Homeowners the sum of Five Hundred and Fifty Pounds (£550) from their own funds in order to compensate the Homeowner for the cleaning services paid for which did not take place, the increased cost of repairs as a result of repairs not being dealt with timeously and the inconvenience caused as a result of the Factor's failure to comply with the Property Factors Code of Conduct.

The Tribunal indicated that prior to making a property factor enforcement order, it would provide the parties with a period of 14 days within which to make representations under Section 19 (2)(b) of the 2011 Act.

The Tribunal's decision was intimated to the parties on 22 September 2021.

The Homeowners made a representation by email dated 29 September 2021 in terms of which they asked that the PFEO should include reference to carrying out works to the outside door and the broken paving stones.

The Tribunal determined to make a PFEO in the terms originally proposed by it. The Tribunal determined that it would not be appropriate to amend the PFEO as suggested by the Homeowners as the consent to the works would be required from other homeowners at the development and funds would require to be ingathered before work could be carried out.

Property Factor Enforcement Order

The First-tier Tribunal hereby makes the following PFEO :

Within a period of three months from the date of service of this PFEO :

1. The Factor will provide to the Homeowners and to the Tribunal evidence that a procedure has been put in place to monitor cleaning of the Property by the provision of three consecutive months of screenshots of the Factor's portal showing date stamped photographs and work schedules submitted by the cleaners.
2. The Factor will provide to the Homeowners and to the Tribunal evidence of site inspection forms uploaded to the Factor's portal following an inspection of the Property

The Factor will pay to the Homeowners the sum of Five Hundred and Fifty Pounds (£550) from their own funds in order to compensate the Homeowner for the cleaning services paid for which did not take place, the increased cost of repairs as a result of repairs not being dealt with timeously and the inconvenience caused as a result of the Factor's failure to comply with the Property Factors Code of Conduct.

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

Member
Date: 26 October 2021