

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/20/2001

53 Rose Street, Aberdeen, AB10 1UB (“the Property”)

The Parties:-

Mr Daniel Buda, 7 Silverknowes Dell, Edinburgh, EH4 5QE (“the Homeowner”)

James Gibb Residential Factors, 2 Thistle Street, Aberdeen, AB10 1XZ (“the Factor”)

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

1. In the Tribunal’s decision of 11th February 2021 it proposed to make a PFEO as follows:

“The Factor is required to pay to the Homeowner within 14 days of intimation to them of the PFEO the sum of £750 from their own funds to compensate the Homeowner for the distress, frustration and inconvenience caused as a result of the Factor’s failure to comply with the Code of Conduct for Property Factors and the failure to carry out its property factor duties.”
2. The Tribunal indicated that, prior to making a PFEO, it would provide the parties with a period of fourteen days within which to make representations under section 19(2)(b) of the Act.
3. By email dated 5th March 2021, the Homeowner made application for a review of the Tribunal’s decision.
4. By decision dated 27th May 2021, the Tribunal amended its written decision. The Tribunal decided not to amend the proposed PFEO.

5. The Tribunal has now confirmed its decision made in terms of Section 19(1)(a) of the Act. The Tribunal agreed that it would be appropriate to make a PFEO.

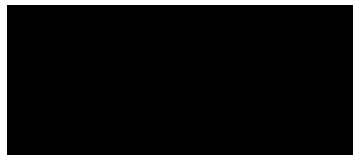
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6. The First-tier Tribunal hereby makes the following PFEO:

The Factor is required to pay to the Homeowner within 14 days of intimation to them of the PFEO the sum of £750 from their own funds to compensate the Homeowner for the distress, frustration and inconvenience caused as a result of the Factor's failure to comply with the Code of Conduct for Property Factors and the failure to carry out its property factor duties. Failure to comply with a PFEO may have serious consequences and may constitute an offence.

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



Legal Member and Chairperson

26th July 2021