

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: HOHP/LM/16/0162

11 East Barns Street (“The House”)

The Parties:-

**Mrs Anne McCormick,
11 East Barns Street, Clydebank, G81 1DA
 (“the homeowner”)**

**West Dunbartonshire Council,
Aurora House,
3 Aurora Avenue, Queens Quay,
Clydebank,
G81 1BF
 (“the property factor”)**

Tribunal Members:

**Martin J. McAllister (Legal Member)
Ahsan Khan (Ordinary Member)**

This document should be read in conjunction with the First-tier Tribunal’s Decision of 15th November 2017 and issued to parties on 20th November 2017.

Decision

The Tribunal has decided that it should make a Property Factors Enforcement Order (PFEO) in the terms originally proposed by it. The decision of the Tribunal is unanimous

Background

The Tribunal made a Determination to make a PFEO and this was contained in a Decision dated 15th November 2017 and intimated to parties on 20th November 2017. The property factor sought leave to appeal the Decision in terms of Section 46 of the Tribunals (Scotland) Act 2014 and Rules 37 and 38 of the First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Amendment Regulations 2017. Leave to appeal was granted. The Upper Tribunal for Scotland refused the Appeal and its Decision was issued to parties on 12th April 2018. The property factor requested that the Upper Tribunal for Scotland review its Decision and this was refused.

Reasons for Decision

In the Tribunal's decision of 15th November 2017, it proposed to make a PFEO as follows:

Within fourteen days of service of the Property Factor Enforcement Order, the property factor will pay the sum of £200 to the homeowner as compensation.

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 20th November 2017.

No substantive representations were made. The property factor's request that it be allowed to appeal to the Upper Tribunal was granted.

The homeowner sent a letter dated 19th January 2018 which was not within the time limit for representations in respect of the proposed PFEO but referred to the property factor's request to be allowed to appeal the Tribunal's Decision.

The Tribunal considered matters and determined that it was appropriate to make a Property Factor Enforcement Order in accordance with the terms of that proposed and intimated to parties.

Property Factor Enforcement Order

The First-tier Tribunal hereby makes the following PFEO:

Within fourteen days of service of the Property Factor Enforcement Order, the property factor will pay the sum of £200 to the homeowner as compensation.

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
Martin J. McAllister

16 July 2018 Date