

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/20/0399

1 Cleveden Drive, Kirklee, Glasgow, G12 0SB (“the House”)

The Parties:-

Mr David Kincaid, 1 Cleveden Drive, Kirklee, Glasgow, G12 0SB (“the Homeowner”)

Apex, 46 Eastside, Kirkintilloch, East Dunbartonshire G66 1QH (“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

In the Tribunal’s decision of 16th November 2020, it proposed to make a PFEO as follows:

“The Factor is required to:

1. Refund to the Homeowner within 21 days of intimation to them of the PFEO the sum of £189.91 from their own funds, which sum constitutes the float of £120 paid by the Homeowner and the remaining balance of £69.91 on the Homeowner’s account; and
2. Pay to the Homeowner within 21 days of intimation to them of the PFEO the sum of £100 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.”

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. The Tribunal’s decision was intimated to the parties on 17th November 2020.

Neither party made representations on the proposed PFEO.

The Tribunal confirmed its decision made on 16th November 2020 in terms of Section 19(1)(a) of the Act. The Tribunal agreed that it would be appropriate to make a PFEO.

Property Factor Enforcement Order

The First-tier Tribunal hereby makes the following PFEO:

The Factor is required to:

1. Refund to the Homeowner within 21 days of intimation to them of the PFEO the sum of £189.91 from their own funds, which sum constitutes the float of £120 paid by the Homeowner and the remaining balance of £69.91 on the Homeowner's account; and
2. Pay to the Homeowner within 21 days of intimation to them of the PFEO the sum of £100 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.

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
23rd December 2020