

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 Reference: FTS/HPC/PF/22/3435

Property address: 2 Cellar Bank, Edinburgh, EH16 5GT (“the Property”)

The Parties

Mr Laurence Errington, 2 Cellar Bank, Edinburgh, EH16 5GT (“the Homeowner”)

Trinity Factoring Services Ltd., 209 Bruntsfield Place, Edinburgh, EH10 4DH (“the Property Factor”)

Tribunal Members

Ms H Forbes (Legal Member)

Mr A McFarlane (Ordinary Member)

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 4th May 2023, it proposed to make a PFEO as follows:

“The Property Factor is required to pay to the Homeowner within 14 days of intimation to them of the PFEO the sum of £250 from their own funds to compensate the Homeowner for the distress, frustration and inconvenience caused as a result of the Property Factor’s failure to comply with the Code of Conduct for Property Factors.”

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. The decision was issued on 11th May 2023..

3. By email dated 19th May 2023, the Property Factor stated that the proposed PFEO had been complied with.
4. 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.

Property Factor Enforcement Order

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

The Property Factor is required to pay to the Homeowner within 14 days of intimation to them of the PFEO the sum of £250 from their own funds to compensate the Homeowner for the distress, frustration and inconvenience caused as a result of the Property 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.

6. In the event that the Homeowner confirms that the PFEO has been complied with, no further action will be required by the Property Factor.

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.

Helen Forbes

Legal Member and Chairperson
15th June 2023