

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/20/1389

24 Lady Campbell’s Court, Dunfermline, KY12 0LJ (“the House”)

The Parties:-

Mr David Mitchell, 24 Lady Campbell’s Court, Dunfermline, KY12 0LJ (“the Homeowner”)

Charles White Ltd., Citypoint, 65 Haymarket Terrace, Edinburgh, EH12 5HD (“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 10th December 2020, it proposed to make a PFEO as follows:

“The Factor is required to:

1. Provide insurance documentation to the Homeowner within 14 days of intimation to them of the PFEO to confirm continuous public liability insurance over the period since the Factor took over phase 2;
2. 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 Factor’s failure to comply with the Code of Conduct for Property Factors and the failure to carry out its property factor duties.”

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 11th December 2020.

By email dated 24th December 2020, the Factor indicated that payment had been made to the Homeowner, and documentation provided. By email dated 29th December 2020, the Homeowner raised issues with the documentation. Discussion is ongoing in regard to the documentation.

Neither party has made representations on the proposed PFEO.

The Tribunal confirmed its decision made on 10th December 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. Provide insurance documentation to the Homeowner within 14 days of intimation to them of the PFEO to confirm continuous public liability insurance over the period since the Factor took over phase 2;
2. 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 Factor's failure to comply with the Code of Conduct for Property Factors and the failure to carry out its property factor duties.

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
17th January 2021