

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(2)

Chamber Ref: FTS/HPC/PF/19/0680

**553 Mossspark Drive, Mossspark, Glasgow G52 1QP
 (“the Property”)**

The Parties:-

**Mr John Garrett, 553 Mossspark Drive, Mossspark Drive, Mossspark, Glasgow G52 1QP
 (“the Homeowner”)**

**Your Place Property Management Limited, Wheatley House, 25 Cochrane Street, Glasgow G1 1HL
 (“the Factor”)**

Tribunal Members:

**Graham Harding (Legal Member)
 Andrew Taylor (Ordinary Member)**

This document should be read in conjunction with the First-tier Tribunal’s Decision of 28 August 2019.

Decision

The Tribunal has decided that it should make a PFEO in the terms originally proposed by it subject to correcting the address of the missing owner and the address of the block in which the property forms part.

The decision of the Tribunal is unanimous.

Reasons for Decision

In the Tribunal’s decision of 28 August 2019 it proposed to make a PFEO as follows:-

The First-tier Tribunal proposes to make the following Property Factor Enforcement Order ("PFEO"):

Within the next 30 days:

- (1) The Factor must confirm to the Tribunal and to the Homeowner in writing that it is aware that the owner of 547 Mosspark Drive, Mosspark, Glasgow does not reside there and that it knows the owner's home address and corresponds with him or her at their home address.
- (2) The Factor must organise a meeting of the owners of 547-553 Mosspark Drive, Mosspark, Glasgow to discuss the remedial works that are required that are common to the property.
- (3) The Factor must pay to the Homeowner from its own funds the sum of £1000.00 in consideration of the delay, inconvenience and expense suffered by the Homeowner as a result of the failings of the Factor.

The Tribunal indicated that prior to making the 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 2 September 2019. On 4 September 2019 the Homeowner pointed out errors in the address of the missing homeowner and the block in which the property forms part. The Tribunal therefore determined to correct the errors in the addresses in accordance with Rule 36 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.

Subsequently in correspondence dated 19 September 2019 the Homeowner sought permission to appeal the Tribunal's decision to the Upper Tribunal. By Decision dated 13 October 2019 the Tribunal refused permission to appeal.

The Property Factor, in correspondence dated 10 October 2019, has indicated it intends to comply with the terms of the PFEO. It indicated that a cheque in settlement of the amount awarded by the Tribunal has been returned by the Homeowner.

The Tribunal is satisfied that the Property Factor has failed to comply with its duties under section 14(5) of the Property Factor (Scotland) Act 2011 in that it did not comply with Sections 6.1 and 6.9 of the Code and also failed to carry out its property factors duties.

Property Factor Enforcement Order

The First-tier Tribunal hereby makes the following PFEO:

Within the next 30 days:

- (4) The Factor must confirm to the Tribunal and to the Homeowner in writing that it is aware that the owner of 557 Mosspark Drive, Mosspark, Glasgow

does not reside there and that it knows the owner's home address and corresponds with him or her at their home address.

- (5) The Factor must organise a meeting of the owners of 551-559 Mossbank Drive, Mossbank, Glasgow to discuss the remedial works that are required that are common to the property.
- (6) The Factor must pay to the Homeowner from its own funds the sum of £1000.00 in consideration of the delay, inconvenience and expense suffered by the Homeowner as a result of the failings of the Factor.

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 a decision of the Tribunal may appeal to the Upper Tribunal 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.

Graham Harding Legal Member and Chair

30 October 2019 Date