



Proposal regarding the making of a Property Factor Enforcement Order: Property Factors (Scotland) Act 2011 Section 19(2)

Chamber Ref: FTS/HPC/LM/21/0906

Property: Property at 15 McVicars Lane, Dundee DD1 4LH (the Property”)

Parties: Mr Sam Donaghey, 15 McVicars Lane, Dundee DD1 4LH (“the Applicant”)

and

J Reavley Factoring Ltd, 125 Nethergate, Dundee DD1 4DW (“the Respondent”)

This document should be read in conjunction with the First-tier Tribunal’s decision of the same date.

The First-tier Tribunal proposes to make the following Property Factor Enforcement Order (“PFEO”) –

1. That the factor is required to provide an accounting to the applicant of all charges made in connection with the applicant’s property and, subject to the said accounting, to repay any sums due to the applicant.
2. The factor is required to provide to the applicant such documents that exist establishing for the applicant the applicant’s financial and other responsibilities in connection with the walls and communal parking areas in respect of maintenance and repair by the applicant of said walls and communal parking areas.
3. The factor is required to pay the applicant within fourteen days of intimation to them of the PFEO the sum of £1,000 to compensate the applicant for the inconvenience caused as a result of the factor’s failure to carry out his property factor’s duties.
4. The factor is required to pay the applicant the sum of £200 in respect of expenses following upon the adjourned hearing on 25 January 2022.

Section 19 of the 2011 Act provides as follows:

(2) In any case where the First-tier Tribunal proposes to make a Property Factor Enforcement Order, it must before doing so – (a) give notice of the proposal to the property factor, and (b) allow the parties an opportunity to make representations to it.

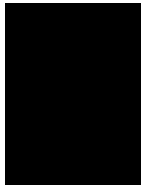
(3) The First-tier Tribunal is satisfied, after taking account of any representations made under subsection (2)(b) that the property factor has failed to carry out the property factor's duty or, as the case may be, to comply with the section 14 duty, the First-tier Tribunal must make a Property Factor Enforcement Order.

The intimation of the First-tier Tribunal's decision and its proposed PFEO to the parties should be taken as notice for the purposes of section 19(2)(a) and parties are hereby given notice that they should ensure that any written representations which they wish to make under section 19(2)(b) reach the First-tier Tribunal by no later than 14 days after the date of the decision and its proposed PFEO is sent to them by the First-tier Tribunal. If no representations are received within that timescale, then the First-tier Tribunal is likely to proceed to make a PFEO without seeking further representations from the parties.

Failure to comply with the PFEO may have serious consequences and may constitute an offence.

Right of Appeal

In terms of Section 46 of the Tribunal (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

11 April 2022

Date