

Housing and Property Chamber First-tier Tribunal for Scotland



First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”)

Property Factors (Scotland) Act 2011 (“the Act”)

Proposed Property Factor Enforcement Order (“PFEO”) Section 19

The First-tier Tribunal for Scotland, Housing and Property Chamber (Rules of Procedure)

Amendment Regulations 2017 (“the regulations”)

Chamber Ref: FTS/HPC/PF/21/0458

Re.: 66 Silvertrees Wynd, Bothwell, G71 8FH (“the property”)

The Parties: -

Mrs Eileen Wright, 66 Silvertrees Wynd, Bothwell, G71 8FH (**“the homeowner”**) represented by Ms Caroline Adams, 18 Silvertrees Wynd, Bothwell, G71 8FH

Miller Property Management Limited, Suite 2.2, Waverley House, Caird Park, Hamilton, ML3 0QA (**“the property factor”**)

Tribunal Members: - Simone Sweeney (Legal Chair) Andrew Taylor (Ordinary Member)

This document should be read in conjunction with the decision of the Tribunal of even date under the reference number noted above.

1. By decision of even date with this Notice, the Tribunal determined that the property factor has failed to comply with sections 2.1, 2.5 and 7.2 of the Code of Conduct for Property Factors (“the Code”) as required by section 14 of the Act and that the

property factor has failed to comply with the Property Factor's duties as required by section 17 (1) (a) of the Act.

2. Therefore, the Tribunal makes the following PFEO:

Within 28 days from the date of issue of this order, for the property factor to:-

- a. provide to the homeowner payment of £750 in recognition of: - the content of the property factor's email of 21st January 2021; the property factor's failure to reply to the homeowner's communications of, 22nd January, 2nd February and 25th February and 14th March 2021; to follow the property factor's complaints procedure and; in recognition of the time, preparation and inconvenience the homeowner has expended in having to bring this application and the property factor's failure to comply with the Property Factor's duties as required by section 17 (1) (a) of the Act.*
- b. To provide evidence of same to the Tribunal's administration.*

3. Section 19 of the 2011 Act provides:

"(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) If 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 duties or, as the case may be, to comply with the section 14 duty, the First-tier Tribunal must make a property factor enforcement order.

(4) Subject to section 22, no matter adjudicated on by the First-tier Tribunal may be adjudicated on by another court or tribunal."

Failure to comply with a PFEO may have serious consequences and may constitute a criminal offence.



.....Legal Chair, at Glasgow on 31st March 2022