

# **Housing and Property Chamber**

## **First-tier Tribunal for Scotland**

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**First-tier Tribunal for Scotland (Housing and Property Chamber)**

**Certificate of Compliance with the Property Factor Enforcement Order  
("PFEO") dated 19 October 2019**

**Chamber Ref: FTS/HPC/PF/19/1977**

**15 Florida Street, Glasgow, G42 9DW ("The Property")**

**The Parties: -**

**Dr Andrew Henderson and Mrs Doreen Henderson, Birkmoss, North Connel,  
Argyll, PA37 1RE ("the Homeowner")**

**W.M. Cumming Turner and Watt, 40 Carlton Place, Glasgow, G5 9TS ("the  
Property Factor")**

**Tribunal Members:**

**Josephine Bonnar (Legal Member)  
Mary Lyden (Ordinary Member)**

### **Decision**

The Tribunal, having determined that the PFEO dated 19 October 2019 relating to the property has been complied with, certifies that the Property Factor has complied with the PFEO.

The decision of the Tribunal is unanimous.

### **Reasons for decision**

In the Tribunal's decision of 19 October 2019, it made a PFEO in the following terms:

- (1) The Tribunal order the Property Factor to pay to the Homeowner the sum of £300 for their time, effort and inconvenience, within 28 days of intimation of the PFEO.

The PFEO was issued to parties on 21 October 2019

On 19 November 2019 the Tribunal wrote to parties to ask whether the Property Factor had complied with the PFEO. On 3 December 2019 the Homeowner notified the Tribunal that the Property Factor had not complied with the PFEO. They stated that a cheque for £300 had been received but that no further action had been taken

by the Property Factor in relation to the gable roof repair or the stair cleaning contract. Furthermore, no response had been received from the Property Factor to an email sent to them on 7 November 2019 or a letter sent to them on 21 November 2019. Copies of the email and letter were attached to the Homeowners submission. The Property Factor did not respond to the Tribunal's email/letter regarding compliance with the PFEO.

The Tribunal notes that the PFEO only requires the Property Factor to pay compensation in the sum of £300. In its decision dated 21 September 2019 the Tribunal noted that the complaints made by the Homeowner had resolved, albeit only a short time before the hearing before the Tribunal. The Property Factor did not attend the hearing but lodged written representations and apologised for the delay in contacting the other homeowners regarding the gable repair and obtaining close cleaning quotes. They had now addressed both matters and this was accepted by the Homeowner. The Tribunal therefore determined that the PFEO should only award the Homeowner compensation for the delay and inconvenience experienced by them. The Tribunal is disappointed to note that there may have been further breaches of the Code and/or failure to carry out property factor duties in relation to the same two issues since the PFEO was issued. However, those alleged failures do not amount to a failure to comply with the PFEO dated 19 October 2019. The PFEO only required a payment of £300 to be made and, as the Homeowner has confirmed that this payment has been received, the Tribunal has no option but to conclude that the Property Factor has complied with the terms of the order.

The Tribunal is therefore satisfied that the Property Factor has now complied with the PFEO and that a certificate of compliance should be issued.

### **Appeals**

**A homeowner or property factor aggrieved by a 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.**

**Joséphine Bonnar,**  
Legal Member

12 January 2020