

Housing and Property Chamber

First-tier Tribunal for Scotland



**Statement of Decision of the First-tier Tribunal for Scotland
(Housing and Property Chamber)
under Section 23(1) of the Property Factors (Scotland) Act 2011**

Chamber Ref: FTS/HPC/PF/20/1368

**Ground Flat, 76 Clydesdale Road, Mossend, Bellshill, Lanarkshire ML4 2QL
("The Property")**

The Parties:-

**Mr Fergus Macleod, 76 Clydesdale Road, Mossend, Bellshill, Lanarkshire ML4 2QL
("the Homeowner" and "Applicant")**

**Apex Property Factor Limited, a Company registered under the Companies Acts (SC419173), and having its registered office at 46 Eastside, Kirkintilloch, East Dunbartonshire G66 1QH
("the Property Factor" and "Respondent")**

Tribunal Members:

Martin J. McAllister, Solicitor, (Legal Member)

Mary Lyden, (Ordinary Member)

(the "tribunal")

Background

1. The Tribunal issued a Property Factor Enforcement Order to the Property Factor in the following terms:

The Respondent is required to make the following payments to the Applicant:

- (a) Seven Thousand One Hundred and Eighteen Pounds, twenty nine pence (£7,118.29);**
- (b) Two Hundred and Fifty Pounds (£250).**

Payments should be made within 14 days of intimation of the property factor enforcement order. Evidence of such payment should be provided to the Tribunal.

2. The property factor enforcement order was intimated to the Respondent by Sheriff Officers on 27th November 2020.
3. On 5th January 2021, the Applicant's solicitor advised that no payment had been made to the Applicant by the Respondent.

Decision and Reasons

4. The tribunal noted that the property factor enforcement order required to be complied with by 12th December 2020 and that this had not been done.
5. The tribunal had received no submissions on the matter from the Respondent and, in terms of Section 23(1) of the Property Factors (Scotland) Act 2011 determined that the Respondent had not complied with the terms of the property factor enforcement order.
6. The tribunal determined that notice of failure to comply will be served on Scottish Ministers in terms of Section 23(2) of the said Act notwithstanding that the Respondent has been removed from the register of property factors maintained by the Scottish Ministers.

Appeals

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.

Where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by the Upper Tribunal, and where the appeal is abandoned or finally determined by upholding the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.

Martin J. McAllister, Legal Member
10 January 2021