

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(3)

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)

This document should be read in conjunction with the First-tier Tribunal’s Decision of 21 September 2019.

Decision

The Tribunal has decided that it should make a PFEO in the terms originally proposed by it.

The decision of the Tribunal is unanimous.

Reasons for decision

In the Tribunal’s decision of 21 September 2019, it proposed to make a PFEO as follows: -

- (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 Tribunal indicated that prior to making a 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 on 25 September 2019. On 1 October 2019 the Homeowner confirmed that they were comfortable with the terms of the proposed PFEO. No written representations have been received from the Property Factor.

The Tribunal is satisfied that the Property Factor has failed to comply with its duties under section 14(5) of the Property Factors (Scotland) Act 2011 Act in that it did not comply with Section 2.5 of the Code of Conduct for Property Factors. It has also failed to carry out its property factors duties in terms of Section 17(5) of the Act in that it failed to obtain estimates and communicate with owners about maintenance of the common close.

Property Factor Enforcement Order

The First-tier Tribunal hereby makes the following PFEO:

- (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.

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 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.

Josephine Bonnar, Legal Member
19 October 2019