



Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) in an application under section 17 of the Property Factors (Scotland) Act 2011 (“the Act”)

Property Factor Enforcement Order (PFEО) under Property Factors (Scotland) Act 2011 Section 19 (3)

Chamber Ref: FTS/HPC/PF/21/2238

Re: Property at 6 Old Dalmore Drive, Auchendinny, EH26 0NG (“the Property”)

Parties:

Dr Sarah Morton, residing at 6 Old Dalmore Drive, Auchendinny, EH26 0NG (“the Applicant”)

Charles White Limited, Citypoint, 65 Haymarket, Edinburgh EH12 5HD (“the Respondent”)

Tribunal Members:

Jim Bauld (Legal Member)

Andrew McFarlane (Ordinary Member)

Background

1. The tribunal issued its decision dated 21 March 2023 and indicated that it proposed to make a property factor enforcement order (PFEО). Reference is made to the terms of that decision.
2. The tribunal invited parties to make representations in respect of the proposed PFEО in terms of the relevant provisions of section 19 of the Property Factors (Scotland) Act 2011.
3. The applicant sent an email dated 12 April 2023 to the tribunal asking what the proposed payment was intended to represent. The respondents sent an email

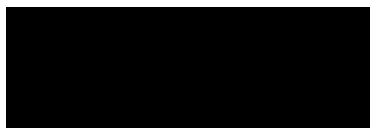
indicating they accepted the proposed PFEO and that they had emailed the applicant asking for her bank details to enable payment to be made to her. They further indicated that the applicant had not responded to that email.

4. The payment is intended to represent compensation in respect of the breach of the Code of Conduct which the tribunal has determined had occurred. The tribunal explained its reasons for this proposed PFEO in the decision dated 21 March 2023
5. On that basis the tribunal therefore determines to make a property factor enforcement order (PFEO) in terms of section 19 of the 2011 Act in the terms previously proposed in its original decision dated 21 March 2023
6. The Tribunal makes the following Property Factor Enforcement Order
 - a. Within 28 days of communication to the Respondent of the Property Factor Enforcement Order the Respondent must:-
 - i. ***Pay to the Applicant the sum of FIVE HUNDRED POUNDS (£500.00);***
 - ii. ***Provide documentary evidence to the Tribunal of the Respondent's compliance with the above Property Factory Enforcement Order by sending such evidence to the office of the First-tier Tribunal (Housing and Property Chamber) by recorded delivery post;***

Under section 24 (1) of the Property Factors (Scotland) Act 2011, a person who, without reasonable excuse, fails to comply with the Property Factory Enforcement Order commits an offence.

Right of Appeal

A Homeowner or Property Factor 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.



19 May 2023

Legal Member

Date

