



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 (PFE0) under Property Factors (Scotland) Act 2011 Section 19 (3)

Chamber Ref: FTS/HPC/PF/20/2019, 2020, 2021, 2022, 2023, 2024

Re: Properties at Carrick Quay, Clyde Street, Glasgow, G1 4LH (“the Property”)

Parties:

Bill Richardson (Homeowner), Carrick Quay, Flat 4/1, 120 Clyde Street, Glasgow, G1 4LH (“the Applicant”) (FTS/HPC/PF/20/2019)

Debbie Kenny (Homeowner), Carrick Quay, Flat 3/1, 120 Clyde Street, Glasgow, G1 4LH (“the Applicant”) (FTS/HPC/PF/20/2020)

Caroline Thomson (Homeowner), Carrick Quay, Flat 3/1, 100 Clyde Street, Glasgow, G1 4LH (“the Applicant”) (FTS/HPC/PF/20/2021)

Jill Carruthers (Homeowner), Carrick Quay, Flat 1/02, 100 Clyde Street, Glasgow, G1 4LH (“the Applicant”) (FTS/HPC/PF/20/2022)

Madeleine Rooney (Homeowner), Carrick Quay, Flat 5/1, 130 Clyde Street, Glasgow, G1 4LH (“the Applicant”) (FTS/HPC/PF/20/2023)

Dawn MacTaggart (Homeowner), Carrick Quay, Flat 4/1, 100 Clyde Street, Glasgow, G1 4LH (“the Applicant”) (FTS/HPC/PF/20/2024)

Residential Management Group (Property Factor), Unit 6, 95 Morrison Street, Glasgow G5 8BE (“the Respondent”)

Tribunal Members:

Mr Jim Bauld (Legal member); Elizabeth Dickson (Ordinary Member)

Background

1. The tribunal issued its decision dated 28 August 2022 and indicated it proposed to make a property factor enforcement order (PFEO). Reference is made to the terms of that decision.
2. The tribunal invited parties to make representations in respect of the proposed PFEO in terms of the relevant provisions of section 19 of the Property Factors (Scotland) Act 2011
3. No representations were made and the tribunal therefore assumes that the property factor accepted the determination of the tribunal that there have been breaches of the code of conduct and that a PFEO should be made
4. Subsequent to the expiry of the period of time to make representations the homeowners lodged with the tribunal an email in which they indicated they wished to appeal against the tribunal's decision.
5. The tribunal considered those representations and granted permission to appeal to the Upper Tribunal. A decision to that effect was issued to the parties on 3 November 2022 and 4 November 2022.
6. By decision dated 6 June 2023, the Upper tribunal refused the appeal and upheld the decision of this tribunal
7. 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 28 August 2022
8. 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 each of the Applicants the sum of ONE HUNDRED POUNDS (£100.00);*
 - 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.



Legal Member

09 October 2023

Date