

Housing and Property Chamber First-tier Tribunal for Scotland



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

Property Factor Enforcement Order following a Decision under Section 17 of the Act.

Reference number:
FTS/23/1594

Re: Flat at 2/1, 70, Millbrae Road, Glasgow, G42 9UG (“the Property”)

The Parties:

Ms. Jane Moir residing at the Property (“the Homeowner”)

W.M. Cumming, Turner and Watt, having a place of business at 40, Carlton Place, Glasgow G5 9TS (“the Property Factor”)

Tribunal Members

Karen Moore (Chairperson) Leslie Forrest (Ordinary and Housing Member)

Background

1. Having determined by Decision dated 30 October 2023 that the Property Factor had failed to comply with the Section 14 duty and its property factor’s duties in terms of the Act, and having determined to issue a Property Factor Enforcement Order (“PFEO”), the Tribunal gave Notice in accordance with Section 19(2)(a) of the Act of its proposed PFEO and invited the Parties to make representations by 15 November 2023.
2. Neither Party made representations. Accordingly, the Tribunal makes the following PFEO:

No later than 29 December 2023, the Property Factor must at its own cost and expense

1. Repair the chimney at the rear far left hand side of the tenement of which the Property forms part to ensure that it is properly rendered and fully sealed and that it does not allow water ingress to the Property or the said tenement;

2. Repair the remainder of the chimneys of the said tenement to ensure that they are properly rendered and do not allow water ingress to the Property or the said tenement;
3. Refund to the Homeowner or write off the management fees for the previous eighteen months, being a total of six quarterly charges totalling £210.00 together with all financial penalties associated with those charges.
4. Pay the Homeowner by a direct payment and not by a credit to the common charges account, the sum of £1,055.00 being the cost of the repair arranged and paid for by her and her share of the £750.00 guttering and chimney work carried out in May 2022.
5. Evidence to the Tribunal that items 1-4 above have been carried out.

Appeal

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.

Karen Moore,

Chairperson

1 December 2023

