

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Decision on homeowner's application: Section 23(1) Property Factors (Scotland) Act 2011 ("the 2011 Act")

Chamber Ref: FTS/HPC/PF/21/1362

Flat 1/1 76 Albert Avenue, Glasgow, G42 8RD ("the Property")

Parties:

Mr Mohammed Alam, Flat 1/1 76 Albert Avenue, Glasgow, G42 8RD ("the Homeowner")

Miller Property Management Limited, Suite 2.2 Waverley House, Caird Park, Hamilton, ML3 0QA ("the Property Factor")

Tribunal Members:

Josephine Bonnar (Legal Member)

Mike Links (Ordinary Member)

DECISION

The Tribunal determined that the Property Factor has failed to comply with the Property Factor Enforcement Order ("PFE0") dated 11 November 2023

The decision of the Tribunal is unanimous.

Background

- 1. The Homeowner lodged application with the Tribunal in terms of Rule 43 of the Tribunal Procedure Rules 2017 and Section 17 of the 2011 Act.**
- 2. Following a hearing on 1 March and 25 May 2023, the Tribunal upheld some of the complaints and determined that the Property Factor had failed to comply with Sections 4.1, 4.5, 5.2 and 5.3 of the Code of Conduct. The Tribunal issued a proposed PFE0. Following further procedure (including a request for permission to appeal by the Property Factor, which was refused), the Tribunal issued a PFE0 on 11 November 2023 in the following terms:-**

“The Tribunal order the Property Factor pay the sum of £250 to the Homeowner for their failure to comply with Sections 4.1, 4.5, 5.2 and 5.3 of the 2012 Code of Conduct for Property Factors, within 28 days of intimation of the PFEO.”

3. On 28 December 2023, the Tribunal contacted the parties to ask for representations regarding compliance with the PFEO. There was no response from either party. A reminder was issued on 24 January 2024. Neither party responded.

Reasons for Decision

4. **Section 23 of the 2011 Act states, “ (1) It is for the First-tier Tribunal to decide whether a property factor has failed to comply with a property factor enforcement order made by the First-tier Tribunal. (3) The First tier Tribunal may not decide that a property factor has failed to comply with a property factor enforcement order – (a) unless the period within which the order requires any work to be executed has ended...”**
5. The Tribunal notes that neither party has responded to the Tribunal’s correspondence which required parties to confirm whether the Property Factor has complied with the PFEO. Neither party has provided any information or evidence that the Property Factor has paid the Homeowner the compensation specified in the Order. In the absence of this evidence, the Tribunal concludes that the Property Factor has failed to comply with the PFEO.

Decision

6. The Tribunal determines that the Property Factor has failed to comply with the PFEO dated 11 November 2023

Appeals

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.