

# Housing and Property Chamber

## First-tier Tribunal for Scotland

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### Property Factor Enforcement Order under s19 (3) of the Property Factors (Scotland) Act 2011

**Case reference: FTS/HPC/PF/21/0213**

**Re:- 2B Ferguslea Terrace, Torrance, Glasgow G64 4BU**

**The Parties:-**

**Mr Paul Martin, residing at 2B Ferguslea Terrace, Torrance, Glasgow G64 4BU  
("the Applicant")**

**and**

**Homesbook Factoring Ltd, 111 Cowgate, Kirkintilloch, Glasgow G66 1JD  
("the Respondent")**

**Tribunal Members:**

**Richard Mill (legal member) and Mike Links (ordinary member)**

### **Decision**

The Tribunal unanimously makes a Property Factor Enforcement Order in the following terms:

- "1. Within 14 days of the date of service of this PFEO the respondent must pay the applicant £ 500 in respect of inconvenience caused to him and additionally return any late payment charges still due to be refunded. Remittance of such funds should be by way of bank transfer.
2. Within 14 days of the date of service of this PFEO the respondent must prepare a schedule of proposed staff training to ensure that all relevant staff are fully aware of the respondent's obligations in respect of the property at flat 2B Ferguslea Terrace, Torrance, Glasgow G64 4BU and the tenement within which it is situated, and in particular:
  - (i) To have detailed knowledge of the terms of the Code of Practice and to ensure that it is complied with.

- (ii) To accurately record all homeowners concerns and complaints in writing, and to record the dates when corresponding contractors are instructed including their identity and a summary of the work undertaken and when it is completed.”

## **Background**

Following a hearing on 18 May 2021 the Tribunal unanimously determined that the respondent had failed to comply with sections 1 and 2 of the Code of Conduct for Property Factors (“the Code”), and in all other respects had adhered to the Code. The Tribunal also unanimously determined that the respondent had breached their property factor duty to timeously instruct repairs / renewals to the rainwater fixtures and fittings. A Property Factor Enforcement Order (“PFEO”) was found to be necessary and the terms of the proposed PFEO were set out in the Tribunal’s decision dated 21 May 2021. Parties had 14 days to make submissions on the terms of the proposed PFEO.

## **Reasons for the PFEO**

The Tribunal set out with detailed reasons in its decision of 21 May 2021 why a PFEO was necessary. The PFEO remains necessary.

The applicant has made no comment upon the terms of the proposed PFEO other than to advise that he has not received the funds to be ordered by the Tribunal in terms of requirement 1. of the PFEO. He has not challenged the terms of the PFEO and has asked that it be implemented.

The respondent has intimated to the Tribunal of their intention to adhere to all aspects of the proposed PFEO. No challenge to its terms were proposed. It is noted that attempts have been made to remit the monies to the applicant in terms of requirement 1. of the PFEO. Evidence of the email sent to the applicant has been produced in this respect so it is unclear why the applicant suggests that no attempts have been made. The Tribunal encourages both parties to communicate effectively to enable this to happen. The respondent also referred to proposed staff training to take place on 7 June 2021 as required in terms of requirement 2. of the PFEO. Confirmation that it has taken place is now required.

## **Appeals**

**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.**

Legal Member:

Date: 9 June 2021