

# Housing and Property Chamber

## First-tier Tribunal for Scotland

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### 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 by

**Case reference: FTS/HPC/PF/18/3226**

**Re:- Flat 2/2, 26 Battlefield Avenue, Glasgow G42 9RJ**

#### **The Parties:-**

**Ms Sarah Hepworth, residing at Flat 2/2, 26 Battlefield Avenue, Glasgow G42 9RJ ('the homeowner');**

**and**

**W M Cumming, Turner & Watt, Property Managers, 40 Carlton Place, Glasgow G5 9ST ('the respondent')**

#### **Tribunal Members:**

**Richard Mill (legal member) and Elaine Munroe (ordinary member)**

#### **Decision**

The Tribunal unanimously makes a Property Factor Enforcement Order in the terms proposed in their earlier decision dated 8 March 2019.

#### **Reasons for Decision**

In the Tribunal's decision of 8 March 2019 the proposed Property Factor Enforcement Order (PFEO) was set out to remedy the Respondent's breaches of the Code of Conduct for Property Factors. Parties were provided with a period of 21 days within which to make representations regarding the PFEO under Section 19(2)(b) of the Act.

Neither party has made any representations in relation to the PFEO. Accordingly, the Tribunal having resumed consideration of the reference have decided to issue the PFEO in the form previously intimated.

## **Property Factor Enforcement Order**

We hereby make the Property Factor Enforcement Order:

“Within 14 days of this Decision being issued to the parties, the respondent must:-

1. Make payment to the homeowner the sum of £100 in recognition of the anxiety, stress and inconvenience caused to her as a result of the respondent's failings.
2. Cancel all outstanding charges on the homeowner's account to bring the balance to zero as at the current date and thereafter ensure all future invoices issued to the homeowner contains full detail of all charges made against her account.

The respondent is required to produce vouched evidence to the Tribunal of having complied with items 1 and 2 above within 21 days”

**Failure to comply with a Property Factor Enforcement Order may have serious consequences and may constitute an offence.**

### **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.**

R Mill

Legal Member

Date 1 April 2019