

Housing and Property Chamber First-tier Tribunal for Scotland



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

Property Factor Enforcement Order (“PFEO”): Property Factors (Scotland) Act 2011 Section 19(3)

Chamber Ref: FTS/HPC/PF/17/0308

8P Glenford Place, Ayr KA7 1LB (“The Property”)

The Parties: -

Mr Eric Armstrong, 8P Glenford Place, Ayr, KA71LB (“the Homeowner”)

James Gibb Property Management Ltd, 65 Greendyke Street, Glasgow, G1 5PX (“the Property Factor”)

Tribunal Members:

Josephine Bonnar (Legal Member)

Andrew McFarlane (Ordinary Member)

This document should be read in conjunction with the First-tier Tribunal’s Decision of 8 January 2018.

Decision

The Tribunal has decided that it should make a PFEO in the terms originally proposed by it.

The decision of the Tribunal is unanimous

Reasons for Decision

In the Tribunal’s decision of 8 January 2018, it proposed to make a PFEO as follows:

- (1) The Tribunal order the Property Factor to pay to the Homeowner the sum of £100 as compensation for his time, effort and inconvenience within 28 days of intimation of the Property Factor Enforcement Order.
- (2) The Tribunal order the Property Factor to pay to the Homeowner the sum of £234.76, being the refund due to the Homeowner as a result of an incorrect insurance premium being charged, within 28 days of intimation of the Property Factor Enforcement Order.
- (3) The Tribunal order the Property Factor to confirm in writing to the office of the Tribunal that steps 1 and 2 above have been carried out, within 7 days of the payments being made.

(For the avoidance of doubt the payments in 1 and 2 are to be made by cheque or bank transfer and not simply as credits to the Homeowner's factoring account).

The Tribunal indicated that prior to making a property factor enforcement order, it would provide the parties with a period of fourteen days within which to make representations under section 19(2)(b) of the Act.

The Tribunal's decision was intimated to the parties on 9 January 2018. No representations have been received from either party. The Tribunal, having considered the matter, has decided to proceed to issue a PFEO on the same terms as the proposed PFEO.

Property Factor Enforcement Order

The First-tier Tribunal hereby makes the following PFEO:

- (1) The Tribunal order the Property Factor to pay to the Homeowner the sum of £100 as compensation for his time, effort and inconvenience within 28 days of intimation of the Property Factor Enforcement Order.
- (2) The Tribunal order the Property Factor to pay to the Homeowner the sum of £234.76, being the refund due to the Homeowner as a result of an incorrect insurance premium being charged, within 28 days of intimation of the Property Factor Enforcement Order.
- (3) The Tribunal order the Property Factor to confirm in writing to the office of the Tribunal that steps 1 and 2 above have been carried out, within 7 days of the payments being made.

(For the avoidance of doubt the payments in 1 and 2 are to be made by cheque or bank transfer and not simply as credits to the Homeowner's factoring account).

Under Section 24(1) of the Property Factors (Scotland) Act 2011, a person who, without reasonable excuse, fails to comply with a property factor enforcement order commits an offence.

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.

Josephine Bonnar, Legal Member and Chair

29 January 2018