

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

**Proposed Property Factor Enforcement Order (“PPFEO”): Property Factors (Scotland) Act 2011 Section 19(2)**

**Chamber Ref: FTS/HPC/Property Factor/22/3982 and FTS/HPC/Property Factor/4023**

**Flat 2/3, The Pirns, King Street, Galashiels TD1 1PX (“the Property”)**

**Parties:-**

**John Rankine, Morva, 9 Buccleuch Street, Innerleithen, EH44 6LA (“the Homeowner”)**

**James Gibb Residential Factors, Bellahouston Business Centre, 423 Paisley Road West, Glasgow, G51 1PZ (“the Property Factor”)**

**The Tribunal:-**

**Melanie Barbour (Legal Member)**

**David Godfrey (Ordinary Member)**

This document should be read in conjunction with the First-tier Tribunal’s Decision of 5 January 2024.

The tribunal proposes to make a property factor enforcement order in the following terms:-

1. Within a period of two months from the date of the PFEEO the Factor must:
  - a. Set up a meeting inviting all owners of properties in the development at the Pirns, King Street, Galashiels (“the development”) to consider
    - i. the terms of the development schedule,
    - ii. to agree what items of communal property will be defined in the areas of responsibility of the factors;
    - iii. to agree the frequency in which it will carry out property inspections and carryout communal maintenance works;

- iv. to consider and agree the level of delegated authority required and amend if appropriate; ,
  - v. to consider and agree if a float is required and the value of it.
  - vi. to consider and agree how often the factor's will hold an owners' meeting and to determine the date of the first owner's meeting.
- b. To consider and agree with owners :-
- i. what outstanding repairs are required to be carried out to the development having regard to the findings of the F3 Survey or any further survey carried out for the development
2. Within a period of three months from the date of the PFEO the Factor must:
- a. Seek agreement with owners of properties in the development at the Pirns, King Street, Galashiels about the timetable for works that will be done and to draw up a programme of works which shall set out all repair and maintenance works to be carried out and a timetable when all works will be commenced and a proposed date when each work will be completed;
  - b. Provide quotes to the owners for the costs of all proposed works; and
  - c. Ingather all costs from owners and commence works in terms of the agreed timetable of proposed works; failing which report to all owners that the works cannot commence due to lack of agreement/ and or funds, and to arrange to hold a further owner's meeting to discuss alternative progress.
3. Within a period of three months from the date of the PFEO the Factor must pay the homeowner compensation of ONE THOUSAND TWO HUNDRED POUNDS (£1,200.00) STERLING for the inconvenience suffered.
4. Provide to the Tribunal written confirmation that items (1) to (3) have been completed.

Section 19 of the 2011 Act provides as follows:

*"(2) In any case where the First-tier Tribunal proposes to make a property factor enforcement order, it must before doing so—*

*(a)give notice of the proposal to the property factor, and*

*(b) allow the parties an opportunity to make representations to it.*

*(3) If the First-tier Tribunal is satisfied, after taking account of any representations made under subsection (2)(b), that the property factor has failed to carry out the property factor's duties or, as the case may be, to comply with the section 14 duty, the First-tier Tribunal must make a property factor enforcement order."*

The intimation of the First-tier Tribunal's Decision and this proposed PFEO to the parties should be taken as notice for the purposes of section 19(2)(a) and parties are hereby given notice that they should ensure that any written representations which they wish to make under section 19(2)(b) reach the First-tier Tribunal by no later than 14 days after the date that the Decision and this proposed PFEO is sent to them by the First-tier Tribunal. If no representations are received within that timescale, then the First-tier Tribunal is likely to proceed to make a property factor enforcement order without seeking further representations from the parties.

**Failure to comply with a PFEO has serious consequences and may constitute an offence.**

Melanie Barbour

Legal Member and Chair

5 January 2024

Date