

# Housing and Property Chamber

## First-tier Tribunal for Scotland

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**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/23/1578**

**Flat 1/1, 64 Kempock Street, Gourock, PA19 1ND  
 (“the Property”)**

**The Parties:-**

**Mrs Elaine Cannon, Flat 1/1, 64 Kempock Street, Gourock, PA19 1ND  
 (“the Homeowner”)**

**Cumming, Turner & Watt, 40 Carlton Place, Glasgow, G5 9TS  
 (“the Factor”)**

**Tribunal Members:**

**Alison Kelly (Legal Member)**

**Leslie Forrest (Ordinary Member)**

This document should be read in conjunction with the First-tier Tribunal’s Decision of 19<sup>th</sup> December 2023.

### **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 19<sup>th</sup> December 2023, it proposed to make a PFEO as follows:

No later than [ 4 weeks from date of PFEO] the Property Factor must at its own cost and expense

1. Repair at their own expense, and without recourse to the homeowners or the local authority, the roof of the tenement of which the Property forms part to the extent that it no longer allows water ingress and the loose and broken tiles are repaired
2. Pay the Homeowner by a direct payment and not by a credit to the common charges account, the sum of £2000 as compensation for the stress and worry, and for the time and effort she has put in to trying to resolve the issue with the Respondent
3. Evidence to the Tribunal that items 1 and 2 above have been carried out.

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 21<sup>st</sup> December 2023.

On 22<sup>nd</sup> December 2023 the Applicant confirmed that she agreed the terms of the proposed PFEO. The Respondent did not make any representations.

### **Property Factor Enforcement Order**

The First-tier Tribunal hereby makes the following PFEO:

No later than 4 weeks from 11<sup>th</sup> January 2024 the Property Factor must at its own cost and expense

1. Repair at their own expense, and without recourse to the homeowners or the local authority, the roof of the tenement of which the Property forms part to the extent that it no longer allows water ingress and the loose and broken tiles are repaired.
2. Pay the Homeowner by a direct payment and not by a credit to the common charges account, the sum of £2000 as compensation for the stress and worry, and for the time and effort she has put in to trying to resolve the issue with the Respondent.
3. Evidence to the Tribunal that items 1 and 2 above have been carried out.

**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.**

Alison Kelly

Legal Member and Chair

09 January 2024

Date