

Housing and Property Chamber

First-tier Tribunal for Scotland



PROPERTY FACTOR ENFORCEMENT ORDER

**Issued by the First-tier Tribunal for Scotland (Housing and Property Chamber)
Under section 17 of the Property Factors (Scotland) Act 2011**

Chamber Ref:FTS/HPC/PF/23/0568

Flat 1/1, 1533 Dumbarton Road, Scotstoun, Glasgow, G14 9XG ('the Property')

The Parties:

Kleanthi Sula residing at Flat 1/1, 1533 Dumbarton Road, Scotstoun, Glasgow, G14 9XG ('the Homeowner')

Lowther Homes ('the Factor')

Tribunal members:

Jacqui Taylor (Legal Member) and David Godfrey (Ordinary Member).

NOTICE TO THE PARTIES

1. The Tribunal, having made such enquiries as it saw fit for the purposes of determining whether the factor has complied with the Code of Conduct for Property Factors, in terms of the Property Factors (Scotland) Act 2011 ('the 2011 Act') determined that the Factor had failed to comply with a property factor duty, all as stated in their decision dated 21st November 2023.

2. The Tribunal intimated to the parties, in terms of their said decision 21st November 2023, that they proposed to make a Property Factor Enforcement Order, requiring the Property Factor to pay the Homeowner the sum of £225. The parties were given notice that they should ensure that any written representations they wish to make under section 19(2)(b) of the Act reach the Housing and Property Chamber's office by no later than 14 days after the date that the Decision and the notice of the proposed Property Factor Enforcement Order was intimated to them.

3. The Property Factor did not provide any written representation in relation to the proposed PFEO.

4. The Homeowner sent the Tribunal an email dated 24th November 2023 in the following terms:

'The Tribunal has made the decision that the Factor to pay me £225 for the inconvenience that's not right. The reason that I am saying this is, first time they came to unblock the drain pipe because of the ice my bathroom was not flooded it was the second or third time when we phoned that the job wasn't complete and still have problems. My neighbour downstairs phoned them because her bathroom was blocked and flooded and then I phoned the factor because my bathroom was flooded. The reason for that was the external main drain on the ground the box was blocked. I spent thousands of pounds to fix the bathroom and I was not ready for that because I did not have the money. But the reason I borrowed the money to fix the bathroom was, when the main drain was blocked the second or third time my bathroom was flooded and water went downstairs to my neighbour (leaked). My neighbour was understanding and she said if it is possible to fix it so it doesn't do any further damage. (That's why I made the decision to fix the bathroom, I didn't want to cause any problems or damage). I am not saying that the factor to pay thousands of pounds but to compensate for some of it and not just for the (inconvenience). When the factor said the job is complete it should have been and not to come five or six times for the same job and charge for it. Their inconvenience cost me a lot more than I can afford. Please take that to your consideration.'

The Homeowner sent the Tribunal a further email dated 12th December 2023 in the following terms:

'I had a phone call from the Factor Lowther homes at 13:42 pm today with withheld number. She said that she wanted my account number (bank details) to send in my account £250 compensation. (And she said that was agreed between First tier tribunal and Lowther homes). I thought that the case was in process. I disagreed for the amount £225 last time when you sent the email 22/11/23 now First tier tribunal has agreed with the factor to compensate me £250 for the inconvenience. First, I spent a lot of money to fix the bathroom (money that I owe, I borrowed) all that because they (the factor) didn't do their job. I pay a lot of money every three months to the factor to take care of the building all I get is messages (we cleaned the stairs or the grass. The building has to be taken care of but they don't do nothing at all as I mentioned in my last email etc. And want to pay me £225 or £250 for the inconvenience that's not right. Does anybody work these days, so the maintenance of building to be up to date or is inconvenient for them to do. I pay for the building

maintenance so do other people, but a letter or email it doesn't show they actually done the job in practice. Please consider this case and not for (convenience)'.

5. The Tribunal considered the Homeowner's representations. The Homeowner did not provide the Tribunal of details of the additional sums claimed before the hearing, during the hearing nor in his response to the Proposed PFEO. The Homeowner has not provided the Tribunal with any vouching or receipts in relation to the additional sums sought. In addition, the Homeowner has not demonstrated to the Tribunal that the sums claimed were incurred by him as a result of the Property Factor's breach of the property factor duty. The Tribunal also considered it to be relevant that the Homeowner could have mitigated his losses by instructing the repair privately but chose not to do so. Consequently, the Tribunal are unable to increase the sum the Property Factor has to pay the Homeowner.

6. The Tribunal make the following Property Factor Enforcement Order:

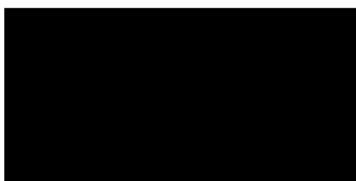
'The Factor must pay the homeowner £225 for the inconvenience he has suffered from their own funds and at no cost to the owners. The said sums to be paid within 28 days of the communication to the Factor of the Property Factor Enforcement Order.'

Failure to comply with a PFEO may have serious consequences and 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.

Signe

A solid black rectangular box used to redact the signature of the Chairperson.

Chairperson Date: 21st December 2023