

Housing and Property Chamber

First-tier Tribunal for Scotland



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

David McGaw, 5 Bute Place, Fort William PH33 6UT (“the Applicant”)

James Gibb Residential Factors, Bellahouston Business Centre, 428 Paisley Road West, Glasgow G51 1PZ (“the Respondent”)

**Re: Property at 342 Victoria Road, Glasgow G42 7RP
 (“the Property”)**

Tribunal Reference: FTS/HPC/23/2449

Tribunal Members:

John McHugh (Chairman) and Elizabeth Dickson (Ordinary (Housing) Member).

DECISION

We are of the view that we should make a property factor enforcement order in the terms originally proposed by us.

Our decision is unanimous.

REASONS FOR DECISION

In our Decision of 17 January 2024 we indicated that we proposed to make a property factor enforcement order ("PFEO"). We indicated that, prior to making a property factor enforcement order, we would provide the parties with a period of fourteen days within which to make representations under section 19(2)(b) of the Act.

On 17 January 2023 the Respondent replied to indicate that it accepted the Tribunal's findings and was making arrangements to comply with the Proposed PFEO.

The Applicant has by email of 20 January 2024 commented that the amount awarded in the Proposed PFEO should be higher to reflect the poor service by the Respondent over a lengthy period. He suggests that the Respondent's charges should be waived in respect of all owners within the block.

Having carefully considered those comments, we have not identified a reason to alter the terms of the PFEO which we consider to be reasonable having regard to the circumstances of the case. If other owners within the block wish to make applications of their own, then these will be considered. Accordingly, we have decided to issue the PFEO in the form previously intimated.

Property Factor Enforcement Order

We hereby make the following Property Factor Enforcement Order ("PFEO"):

"Within 35 days of the date of the communication to the Respondent of this property factor enforcement order, the Respondent must:

- 1 Credit to the factoring account of the applicant the disputed charges of £53.99.*
- 2 Pay to the Applicant the sum of £150, such sum to be by cheque or bank transfer as opposed to by credit to his factoring account.*
- 3 Confirm in writing to the office of the Tribunal that steps 1 and 2 above have been carried out."*

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.

Signed

Date 5 February 2024

JOHN M MCHUGH

Chairperson