

# Housing and Property Chamber

## First-tier Tribunal for Scotland

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**Failure to Comply Decision in relation to a Property Factor Enforcement Order made in terms of Section 19(3) of the Property Factors (Scotland) Act 2011.**

**Chamber Ref: FTS/HPC/PF/23/0588**

**Property: 42 Silvertrees Wynd, Bothwell G71 8FH (“the Property”)**

**The Parties:-**

**Mr Gordon Nuttall, 42 Silvertrees Wynd, Bothwell G71 8FH (“the homeowner”)**

**Miller Property Management Limited, registered in Scotland under the Companies’ Acts (SC352726), having their registered office at 29 Brandon Street, Hamilton ML3 6DA and having a place of business at Suite 2, Waverley House, Caird Park, Hamilton ML3 0QA (“the property factors”)**

**Tribunal Members:**

**George Clark (Legal Member/Chairman) and Kingsley Bruce (Ordinary Member)**

### **Decision of the Tribunal**

The Tribunal determined that the property factors have failed to comply with the terms of the Property Factor Enforcement Order made on 14 August 2023 and that Notice of Failure should be served on Scottish Ministers.

### **Reasons for Decision**

Following a Case Management Discussion on 1 June 2023, the Tribunal notified the Parties on 14 June 2023 that it intended to make a Property Factor Enforcement Order (“PFEO”) requiring the property factors to pay to the homeowner the sum of £500 by way of compensation for inconvenience and distress in respect of their failure to comply with OSP4, OSP10, OSP12 and Sections 2.2 and 2.7 of the Property Factors Code of Conduct effective from 1 October 2012. The PFEO was made on 16 August 2023 and sent to the Parties.

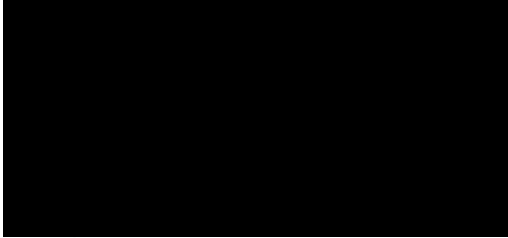
On 9 January 2024, the homeowner told the Tribunal that the property factors had not complied with the PFEO. The property factors did not respond to correspondence from the Tribunal.

The Tribunal decided, therefore, that the property factors have complied with the PFEO and that, in terms of Section 23 of the Property Factors (Scotland) Act 2011, notice of the failure should be served on the Scottish Ministers.

The Tribunal’s Decision was unanimous.

### **Right of Appeal**

**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 .....

Dated: 19 February 2024

Chairperson