

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Property Factor Enforcement Order (“PFEO”): Property Factors (Scotland) Act 2011 Section 19(3)

Chamber Reference: FTS/HPC/LM/23/0727

Re: Property at Communal Area and Garage, 11/10 Valleyfield Street, Edinburgh, EH3 9LP (“the Property”)

The Parties:

Dr John Stout, 11/10 Valleyfield Street, Edinburgh, EH3 9LP (“the Homeowner”)

James Gibb Residential Factors, 4 Atholl Place, Edinburgh, EH3 8HT (“the Property Factor”)

Tribunal Members

Ms H Forbes (Legal Member) and Ms C Jones (Ordinary Member)

Decision

The Tribunal has decided that it should make a PFEO in the terms originally proposed by it. The decision is unanimous.

Reasons for Decision

1. In the Tribunal’s decision of 25th March 2024, it proposed to make a PFEO as follows:

“The Property Factor is required to pay to the Homeowner within 14 days of intimation to them of the PFEO the sum of £500 from their own funds to compensate the Homeowner for the distress, frustration and inconvenience caused as a result of the Property Factor’s failure to comply with the Code of Conduct for Property Factors.”

2. The Tribunal indicated that, prior to making a PFEO, 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 decision was issued on 25th March 2024.

3. By email dated 26th March 2024, the Property Factor made a request for information in regard to timescales for payment. Neither party made representations under section 19(2)(b) of the Act.
4. The Tribunal has now confirmed its decision made in terms of Section 19(1)(a) of the Act. The Tribunal agreed that it would be appropriate to make a PFEO.

Property Factor Enforcement Order

5. The First-tier Tribunal hereby makes the following PFEO:

The Property Factor is required to pay to the Homeowner within 14 days of intimation to them of the PFEO the sum of £500 from their own funds to compensate the Homeowner for the distress, frustration and inconvenience caused as a result of the Property Factor's failure to comply with the Code of Conduct for Property Factors.

6. Under section 24 (1) of the Act, a person who, without reasonable excuse, fails to comply with the Property Factory Enforcement Order commits an offence.

Right of Appeal

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.

Helen Forbes

Legal Member and Chairperson
15th April 2024