



Decision of the Homeowner Housing Committee issued under the Homeowner Housing Panel (Applications and Decisions) (Scotland) Regulations 2012

In Application

by

**Jim Mannix, 38 Brook Court, Monkstown, County Dublin, Republic of Ireland
A94 Y5A4 (“the Applicant”)**

**Property Factor: Be-Factored Ltd, 2a North Kirklands, Eaglesham Road, Glasgow
G76 0NT (“the Respondent”)**

hohp Ref: HOHP/PF/15/0126

Re: 25 Royal Apartments, 15 Union Street, Dundee DD1 4BN (“the Property”)

Committee Members:

John McHugh (Chairman) and David Hughes Hallett (Housing Member).

This document should be read in conjunction with the Committee’s Decision of 15 February 2016.

DECISION

We are of the view that we should make a property factor enforcement order in the terms originally proposed by us with the exception of the section regarding payment as payment has already been performed.

Our decision is unanimous.

REASONS FOR DECISION

In our decision 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.

Our decision was intimated to the parties on 18 February 2016.

No relevant representations were received from the parties other than confirmation that the Respondent had paid the sum of £50 to the Applicant. Accordingly, we have decided to issue the PFEO in the form previously intimated with the removal of the parts relating to the payment.

Property Factor Enforcement Order

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

“Within 28 days of the date of the communication to the Respondent of this property factor enforcement order, the Respondent must:

1 Provide to the Applicant a document containing a full accounting reconciliation of all intromissions by the Respondent with funds relating to the Development during the full period of its acting as property factor.

The reconciliation document must be accompanied by a copy of all financial records relating to the Development and, in particular, should include all invoices (paid or unpaid), all receipts, all bank statements and should demonstrate the extent to which funds relating to No.s 5 and 15 Union St have been dealt with separately. It should include opening and closing balances.

Such reconciliation document must be accompanied by a certificate signed by a chartered accountant who is independent of the Respondent. The certificate should confirm the name, contact details and professional qualifications of the accountant. The certificate should contain confirmation by the accountant:

a) that he has been provided with: (i) a copy of the Committee’s Decision and the PFEO and (ii) a copy of all invoices, receipts, accounts, bank statements or financial records which he reasonably requires; and

b) that he is reasonably satisfied that the reconciliation presents an accurate record of the Respondent’s handling of the funds relating to the Development.

2 Provide to the Applicant a separate statement of account particular to him showing the opening balance, all payments received by the Respondent from the Applicant, all charges levied or other credits applied to the Applicant’s account and the remaining balance.

3 Provide a copy to the office of the HOHP of all documents produced in satisfaction of paragraphs 1 and 2 of this PFEO.”

Failure to comply with a property factor enforcement order may have serious consequences and may constitute an offence.

APPEALS

The parties' attention is drawn to the terms of section 22 of the 2011 Act regarding their right to appeal and the time limit for doing so. It provides:

“(1) An appeal on a point of law only may be made by summary application to the sheriff against a decision of the president of the homeowner housing panel or a homeowner housing committee.

(2) An appeal under subsection (1) must be made within the period of 21 days beginning with the day on which the decision appealed against is made...”

Signed

Date 11 March 2016

JOHN M MCHUGH

Chairperson