

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:HOHP/PF/17/0006

4 The Park, Victoria Road, Forres, IV36 3AH ('the Property')

The Parties:

Elizabeth Bruce and Ricardo Petrocelli ('the Homeowner')

James Gibb Residential Factors, 2 Thistle Street, Aberdeen, AB10 1XZ ('the Factor')

Committee members:

Jacqui Taylor (Chairperson) and Andrew Taylor (Ordinary Member).

NOTICE TO THE PARTIES

The Tribunal, having made such enquiries as it saw fit for the purposes of determining whether the Factor has complied with the property factor's duties in terms of the Property Factors (Scotland) Act 2011 ('the 2011 Act') determined that the Factor had failed to comply with sections 1, 2.5, 5.6 and 5.7 of the Code of Conduct, and the Property Factor's duties, all as stated in their decision dated 12th July 2017.

The Tribunal intimated to the parties, in terms of their said decision dated 12th July 2017, that they proposed to make a Property Factor Enforcement Order. The Factor lodged an application for the Tribunal to review their decision. The Tribunal considered this application carefully and issued their decision dated 22nd August 2017 in terms of which they refused the application to review their decision as they considered it to be without merit. As no further representations have been received from the parties in relation to the proposed Property Factor Enforcement Order the Tribunal make the following Property Factor Enforcement Order:

'James Gibb Residential Factors are directed to pay the Homeowner £550 as compensation from their own funds and at no cost to the owners. The said sums to be paid within 28 days of the communication to them of the Property Factor Enforcement Order'

Under Section 24(1) of the Property Factors (Scotland) Act 2011, a person who, without reasonable excuse, fails to comply with a Property Factor Enforcement Order commits 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.

J Taylor

Signed ..

.....Date 18th October 2017

Chairperson