

Housing and Property Chamber First-tier Tribunal for Scotland



Property Factor Enforcement Order made under Section 19(3) of the Property Factors (Scotland) Act 2011 (“the 2011Act”) following upon a Determination of the First-tier Tribunal for Scotland (Housing and Property Chamber) in an application under Section 17(1) of the 2011Act

Chamber Ref: HOHP/PF/15/0123

Re: 2/1, 139 Gatehouse Street, Sandyhills, Glasgow, G32 9BZ (‘the property’)

The Parties:

Mrs Isabel Marshall, Re: 2/1, 139 Gatehouse Street, Sandyhills, Glasgow, G32 9BZ (‘the homeowner’), represented by Ms Deborah Carmichael, solicitor.

Your Place Property Management, Granite House, 177 Trongate, Glasgow G15HF (‘the property factor’)

Members of the First–tier Tribunal for Scotland (Housing and Property Chamber) (‘the tribunal’) : Martin McAllister, solicitor, legal member and Kingsley Bruce, surveyor, ordinary member.

This document should be read in conjunction with the tribunal’s Determination under Section 19(3) of the 2011 Act of the same date.

The tribunal makes the following Property Factor Enforcement Order (PFEO):

The property factor is to provide an undertaking to the Tribunal that it will, in future, prior to seeking approval for any works requiring to be done to properties it factors, ensure that it takes all reasonable steps to properly ascertain the actual extent of any works which may be required and to carry out such investigative work as may be required to ensure that homeowners are not put to unnecessary expense by agreeing to work which is not required. Such undertaking is to be given within twenty eight days of the service of the property factor enforcement order.

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

"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."

Martin McAllister

Martin J. McAllister
Legal Member,
Housing and Property Chamber
First-tier Tribunal for Scotland
1st March 2017

Housing and Property Chamber First-tier Tribunal for Scotland



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

Determination: Property Factors (Scotland) Act 2011 Section 19

Chamber Ref: HOHP/PF/15/0123

Re: 2/1, 139 Gatehouse Street, Sandyhills, Glasgow, G32 9BZ ('the property')

The Parties:

Mrs Isabel Marshall, Re: 2/1, 139 Gatehouse Street, Sandyhills, Glasgow, G32 9BZ ('the homeowner'), represented by Ms Deborah Carmichael, solicitor.

Your Place Property Management, Granite House, 177 Trongate, Glasgow G15HF ('the property factor')

The Homeowner Housing Committee: Martin McAllister, legal member and Kingsley Bruce, surveyor member.

Decision by The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the tribunal') under section 17 of the Property Factors (Scotland) Act 2011 (the 2011 Act).

The tribunal determined to issue a property factor enforcement order (PFEO) along with its Determination on 19th December 2016. One aspect of the proposed PFEO was for the property factor to pay compensation of £2500 to the homeowner.

The property factor intimated to the tribunal that it had paid the sum of £2500 to the homeowner and she confirmed that it had been paid.

The tribunal considered matters and determined that it was not necessary to make a property factor enforcement order in respect of payment of compensation since the property factor had made the payment. It considered that it was still appropriate to issue a property factor enforcement order in respect of the undertaking sought and proceeded to do so. Neither party had made any representations to the tribunal seeking to persuade it to do otherwise.

The tribunal made the following property factor enforcement order:

The property factor is to provide an undertaking to the Tribunal that it will, in future, prior to seeking approval for any works requiring to be done to properties it factors, ensure that it takes all reasonable steps to properly ascertain the actual extent of any works which may be required and to carry out such

investigative work as may be required to ensure that homeowners are not put to unnecessary expense by agreeing to work which is not required. Such undertaking is to be given within twenty eight days of the service of the property factor enforcement order.

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.

Martin McAllister

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Legal Member,
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First-tier Tribunal for Scotland
1st March 2017