

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Property Factor Enforcement Order

Property Factors (Scotland) Act 2011, Section 19(2)

Chamber Ref: FTS/HPC/PF/17/0023

**1 Millcroft Road, Cumbernauld, Glasgow, G67 2QE
("the Property")**

The Parties:-

**MR IAN McNAUGHT, 1 Millcroft Road, Cumbernauld, Glasgow, G67 2QE
("the Applicant")**

**APEX PROPERTY FACTOR LIMITED, 46 Eastside, Kirkintilloch, East
Dumbartonshire, G66 1QH
("the Respondent")**

Tribunal Members:

**Graham Harding (Legal Member)
Carolyn Hirst (Ordinary Member)**

This document should be read in conjunction with the First-tier Tribunal's Decision of 23 November 2017 under the above reference number.

Decision

1. By decision dated 23 November 2017, following a review of its decision dated 5 July 2017, the tribunal upheld its original decision and decided that the Respondent had failed to comply with its duties under Section 14 (5) of the 2011 Act in that it did not comply with Sections 2.2, 2.5, 4.8 and 4.9 of the Code.
2. On the same date the Tribunal issued a proposed Property Factor Enforcement Order ("PFEO"). It allowed the parties 14 days to make comment on the terms of the proposed PFEO. The proposed PFEO was sent to the parties on 12 December 2017. No relevant communications were received from the parties in the 14 days following the proposed PFEO being issued. The Tribunal received written representations from the Respondent on 28 December 2018 outwith the 14 day period permitted. The Tribunal considered the written representations and were unanimously of the view that the


Respondent's representations were irrelevant. The Tribunal now makes the following Order:-

- (1) The Respondent must issue a credit note to the applicant in the sum of £1,345.94 within 28 days of the communication to the Respondent of the Property Factor Enforcement Order.
- (2) The Respondent must not issue any further invoices after 29 September 2017 or if they have issued any further invoices these must be cancelled and a credit note issued within 28 days of the communication to the Respondent of the Property Factor Enforcement Order.
- (3) The Respondent must pay within 28 days of the communication to the Respondent of the Property Factor Enforcement Order the sum of £300 by way of compensation.
- (4) The Respondent must provide documentary evidence of compliance with the above Orders to the Tribunal within 7 days of having done so.

Failure to comply with a PFEO may have serious consequences and may constitute an offence.

APPEALS

3. 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 seek permission to Appeal from the First Tier Tribunal. That party must seek permission within 30 days of the date the decision was sent to them.


Graham Harding, Legal Member

15 January 2018

Date