

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:FTS/HPC/PF/16/1011

Flat 3/2, 7 Radnor Street, Glasgow, G3 7UA ('the Property')

The Parties:

David Shields, 11 Denbeath Court, Ferniegar, Hamilton, ML3 7TR ('the Homeowner')

Apex Property Factor Limited, 46 Eastside, Kirkintilloch, East Dunbartonshire, G66 1QH ('the Factor')

Committee members:

Jacqui Taylor (Chairperson) and Carolyn Hirst (Ordinary Member).

The Tribunal in terms of their decision dated 22nd October 2017, determined that the Factor had failed to comply with sections 1, 2.4; 2.5; 3.1; 3.3 and 6.1 of the Code of Conduct. The Tribunal intimated to the parties, in terms of their said decision, that they proposed to make a Property Factor Enforcement Order. As no material 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:

'(First) The Factor is directed to pay the Homeowner the sum of £607.50 (being the reimbursement of the sum of £237.50 plus £120 legal expenses the Homeowner had been charged for the preparation and registration of the Notice of Potential Liability and £250 compensation for the stress and inconvenience suffered by the Homeowner). The said sum should be paid from their own funds and at no cost to the Homeowner within 28 days of the communication to them of the Property Factor Enforcement Order.

(Second) The Factor is directed to prepare an accurate Statement of Account detailing all sums charged and payments received from the Homeowner, during the whole period they factored his property, including the final account. The Factor is also directed to reimburse any balance due 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 15th December 2017

Chairperson