

Housing and Property Chamber

First-tier Tribunal for Scotland



Property Factor Enforcement Order (“PFEO”): Section 19 (3) of the Property Factors (Scotland) Act 2011 (“the 2011 Act”)

Chamber Reference: FTS/HPC/PF/22/3879

Re: Property at 18 The Meadows, Dalbeattie, DG5 4AS (“the Property”)

Parties:

Mr Tom Barry, 12 Hameau de la Ville, 50760 Anneville en Saire, France (“the Applicant”)

Lowther Homes Limited, Wheatley House, 25 Cochrane Street, Glasgow, GL1 1HL (“the Respondent”)

Tribunal Members:

Martin McAllister, solicitor, (Legal Member) and Mary Leyden, (Ordinary Member) (“the tribunal”)

This document should be read in conjunction with the decision of the Tribunal dated 25 August 2023.

Decision

The tribunal decided to make a PFEO in the terms originally proposed by it.

Reasons

1. In the decision of 25 August 2023 which was served on the parties on the same date, the tribunal proposed to make a PFEO as follows:

1.1 The Tribunal requires the Property Factor to pay the sum of Three Hundred pounds (£300) to the Homeowner within thirty days of the service on it of the final PFEO in terms of Section 19 (3) of the 2011 Act.

1.2 The Property Factor undertakes that it will communicate with the Homeowner by using his preferred email address in relation to all matters concerning the Property to include, without prejudice to the foregoing, all financial statements, correspondence with regard to repair issues and general correspondence sent to all homeowners. The undertaking must be provided to the Tribunal within thirty days of the service on it of the final PFEO in terms of Section 19 (3) of the 2011 Act

2. The tribunal indicated that, prior to making a property factor enforcement order, it would provide the parties with a period of fourteen days within which to make representations under section 19(2)(b) of the 2011 Act.
3. Neither party has made such representations.
4. The tribunal considered matters. It had found that the Respondent had failed to comply with the Code of Conduct and was satisfied that an award of compensation should be paid and that the Property Factor should be required to provide an undertaking in the terms set out in the proposed PFEO.

Decision

The tribunal determined to make the PFEO in the terms which it had set out in the proposed PFEO.

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 J. McAllister, Legal Member
15 September 2023