

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Property Factors (Scotland) Act 2011, Section 19

The First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Amendment Regulations 2017 (“the 2017 Regulations”)

Chamber Ref: FTS/HPC/PF/17/0336

**Flat 8, 112 Hillpark Grove, Edinburgh, EH4 7EF
 (“The Property”)**

The Parties:-

**Mr Michael Sturgeon, residing at the Property
 (“the Homeowner”)**

**Charles White Limited, Citypoint, 65 Haymarket Terrace, Edinburgh, EH12 5HD
 (“the Factor”)**

Tribunal Chamber Members

**Maurice O’Carroll (Legal Member)
 Sara Hesp (Ordinary Member)**

Property Factor Enforcement Order (“PFEO”)

This Order should be read in conjunction with the decision of the Tribunal and proposed PFEO dated 23 January 2018 under the above reference

1. By decision dated 23 January 2018, the Tribunal determined that the Factor had breached its duties in terms of s 17(1)(b) of the 2011 Act in that it had failed to comply with sections 2.5 and 7.1 of the Code of Conduct for Property Factors as required by s 14(5) of that Act. It also found that the Factor had failed in its property factor duties in terms of s 17(1)(a) of that Act as described in the said decision.
2. In accordance with s 19(3) of the 2011 Act, having been satisfied that the Factor has failed to carry out the property factor duties, the Tribunal must make a Property Factor Enforcement Order. Before making an Order, to comply with s 19(2) of the Act, the Tribunal must give notice of the proposed Order to the factor and must allow the parties an opportunity to give representations to the Tribunal in relation to the Notice of proposed PFEO.

3. Notice of the proposed PFEO was duly sent to the parties on 24 January 2018 and 14 days allowed for representations to be received. No representations have been received from either party within that period.

4. Therefore, the Tribunal makes the following PFEO:

Within 28 days of the communication of the PFEO to the Factor, the Factor must:

- (i) Pay compensation to the Homeowner in the sum of £750 (Seven Hundred and Fifty Pounds) in respect of the time and inconvenience occasioned by the Factor's failure to comply with its factor duties.
 - (ii) Provide documentary evidence of compliance to the Tribunal with the above Order within 7 days of having done so.
5. It is further recommended that the Factor amends its Written Statement of Service at page 18 thereof to make clear the point at which the 21-day debt recovery procedure is triggered as discussed in the said decision.

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

6. 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 within 30 days of the date the decision was sent to them.

Signed: M O'Carroll
Chairman

Date: 8 February 2018