

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

PROPERTY FACTOR ENFORCEMENT ORDER

**The First-tier Tribunal for Scotland Housing and Property Chamber
(Procedure) Regulations 2016 (“the 2016 Regulations”)**

Chamber Ref: ho hp.pf.16.0115

**Flat 0/2, 48 Garscadden Road, Old Drumchapel, Glasgow, G15 6UL (“the
Property”)**

The Parties:-

**Dr Gemma McGrory residing at Flat 0/2, 48 Garscadden Road, Old
Drumchapel, Glasgow G15 6UL (“the Homeowner”)**

**Be-Factored Limited, 2a North Kirklands, Eaglesham Road, Glasgow,
G76 0NT (“the Factor”)**

Tribunal Members:

**Mr E K Miller, Chairman and Legal Member
Ms E Munroe, Housing Member**

**This Notice should be read in conjunction with the Decision and
proposed Property Factor Enforcement Notice dated 7 March 2017 under
Reference HOHP.PF.16.0115**

Background

1. By Decision dated 7 March 2017, the Tribunal determined that the Factor had breached their duties in terms of Section 17 (1) (b) of the Property Factors (Scotland) Act 2011 (“the Act”) in that they had failed to comply with Sections 1, 2.5 and 3.2 of the Property Factors Code of Conduct as required by Section 14 (5) of the Act.
2. The said Decision set out a proposed Property Factor Enforcement Order (“the PFEO”) that the Tribunal was considering making. This was circulated to both parties and no comments were received, other than the Homeowner confirming that no funds had been received by her from the Factor following the proposed PFEO being issued. Accordingly, the

Tribunal was satisfied that it was appropriate in terms of Section 19 (3) of the Act to issue the PFEO as a result of the ongoing failure by the Factor.

3. Therefore, the Tribunal now makes the following Property Factor Enforcement Order:
 - a. The Factor is directed to remit the sum of £377.62 to the Homeowner within 31 days of the date of service of this PFEO.

Right of Appeal

4. 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.

Where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by the Upper Tribunal, and where the appeal is abandoned or finally determined by upholding the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.

Effect of section 63

5. Where such an appeal is made, the effect of the decision and of the order is suspended until the appeal is abandoned or finally determined, and where the appeal is abandoned or finally determined by confirming the decision, the decision and the order will be treated as having effect from the day on which the appeal is abandoned or so determined.

E Miller

Signed ...

Date 17/5/2017

Chairperson