

Housing and Property Chamber

First-tier Tribunal for Scotland



Proposal regarding the Making of a Property Factor Enforcement Order

**Following Upon a
Decision of the First-tier Tribunal for Scotland (Housing and Property
Chamber)
In an Application under section 17 of the Property Factors (Scotland) Act 2011**

by

**Andrew and Catherine MacPhail, Flat 2/1, 1 Wallace Street, Dumbarton G82
1HH
("the Applicants")**

**Apex Property Factor Ltd, 46 Eastside, Kirkintilloch, East Dunbartonshire G66
1QH
("the Respondent")**

Chamber Ref: FTS/HPC/PF/17/0232

**Re: Flat 2/1, 1 Wallace Street, Dumbarton G82 1HH
("the Property")**

Tribunal Members:

John McHugh (Chairman) and Andrew McFarlane (Ordinary (Surveyor) Member).

This document should be read in conjunction with the Tribunal's Decision of the same date.

The Tribunal proposes to make the following Property Factor Enforcement Order ("PFEO"):

"Within 31 days of the date of the communication to the Respondent of this property factor enforcement order, the Respondent must:

1 Repay to the Applicants the sum of £1036.31.

2 Pay to the Applicants the sum of £500.

(For the avoidance of doubt the payments in 1 and 2 are to be made by cheque or bank transfer and not simply as credits to the Applicants' factoring account).

3 Confirm in writing to the office of the Tribunal that steps 1 and 2 above have been carried out."

Section 19 of the 2011 Act provides as follows:

"...(2) In any case where the First-tier Tribunal proposes to make a property factor enforcement order, it must before doing so—

(a) give notice of the proposal to the property factor, and

(b) allow the parties an opportunity to make representations to it.

(3) If the First-tier Tribunal is satisfied, after taking account of any representations made under subsection (2)(b), that the property factor has failed to carry out the property factor's duties or, as the case may be, to comply with the section 14 duty, the First-tier Tribunal must make a property factor enforcement order..."

The intimation of the Tribunal's Decision and this proposed PFEO to the parties should be taken as notice for the purposes of section 19(2)(a) and parties are hereby given notice that they should ensure that any written representations which they wish to make under section 19(2)(b) reach the Tribunal office by no later than 14 days after the date that the Decision and this proposed PFEO is intimated to them. If no representations are received within that timescale, then the Tribunal is likely to proceed to make a property factor enforcement order without seeking further representations from the parties.

Failure to comply with a property factor enforcement order may have serious consequences and may constitute an offence.

JOHN M MCHUGH

CHAIRMAN

Date: 30 December 2017