

Housing and Property Chamber

First-tier Tribunal for Scotland



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

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

Chamber Ref : FTS/HPC/PF/17/0293, FTS/HPC/PF/17/0294, FTS/HPC/PF/17/0295, FTS/HPC/PF/17/0289, FTS/HPC/PF/17/0292, FTS/HPC/PF/17/0290 and FTS/HPC/PF/17/0291

Flat 2/1, 1276 Argyle Street, Glasgow, G3 8AA
Flat 2/2, 1276 Argyle Street, Glasgow, G3 8AA
Flat 3/3, 7 Radnor Street, Glasgow G3 7UA
9-11 Radnor Street, Glasgow, G3 7UA
13 Radnor Street, Glasgow, G3 7UA
3-5 Radnor Street, Glasgow G3 7UA
Flat 1/1, 1276 Argyle Street, Glasgow G3 8AA
(known collectively as “the Property”)

The Parties:-

Mr. Russell Hyslop, residing at 20 Peters Gate, Bearsden, Glasgow, G61 3RY
Mr. Colin Montgomery, residing at 71 Rodger Avenue, Newton Mearns, Glasgow, G77 6JS, represented by Russell Hyslop
Dr Jeremy Roberts, Dr Hilary Melrose, Dr Gillian Eardley, Dr Anne Reid, Dr Patrick MacLaren, Partners of Radnor Street Surgery, 3 Radnor Street, Glasgow, G3 7UB, represented by Russell Hyslop
Mrs. Patricia Sampaio, residing at 24 St Anne’s Drive, Giffnock, Glasgow, G46 6JP, represented by Russell Hyslop
(known collectively as “the Homeowner and Applicant”)

Apex Property Factor Limited, 46 Eastside, Kirkintilloch, East Dunbartonshire, G66 1QH
(“the Factor and Respondent”)

Tribunal Members:-

Patricia Anne Pryce	-	Chairing and Legal Member
Ann MacDonald	-	Ordinary Member (Housing)

This document should be read in conjunction with the First-tier Tribunal’s Decision of 20 August 2018.

Decision

The Tribunal has decided that it should make a PFEO in the terms originally proposed by it under deletion of Paragraph 5 of the proposed PFEO as outlined in its Review Decision of 22 November 2018.

The decision of the Tribunal is unanimous.

Reasons for Decision

In the Tribunal's decision of 20 August 2018, it proposed to make a PFEO as follows:

Within 28 days of the date of communication to the Respondent of the property factor enforcement order, the Respondent must:-

1. Pay to Mrs Sampaio the sum of £500 for the inconvenience and distress she suffered.
2. Pay to the Doctors the total sum of £500 for the inconvenience they have suffered.
3. Pay to Mr Montgomery the sum of £600 for the inconvenience and stress he has suffered.
4. Pay to Mr Hyslop the sum of £1,000 for the inconvenience and stress he has suffered.
5. Issue correct final invoices to all of the Applicants which account for all transactions between the Applicants and the Respondents and which include both the float and any refunds due.
6. Provide documentary evidence to the tribunal of the Respondent's compliance with the above Property Factor Enforcement Order by sending such evidence to the office of the First-tier Tribunal (Housing and Property Chamber) by recorded delivery post.

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 Act.

The Tribunal's decision was intimated to the parties on 29 August 2018.

Thereafter, applications for review were received from both parties and, further to a hearing in respect of a Review, the Tribunal issued its Decision on Review dated 22 November 2018 which is referred to for its terms. In short, the Tribunal decided unanimously as a result of the Review Hearing to delete the requirement in respect of Paragraph 5 of the proposed PFEO in relation to requiring the Respondent to produce further invoices. That decision was intimated to parties on 29 November 2018.

The Applicants' representative emailed the Tribunal on 20 December 2018 confirming that none of the Applicants had received any compensation from the Respondent as required by the proposed PFEO as amended. He confirmed that all parts of the proposed PFEO remained outstanding and had not been complied with. The Tribunal received no further representations from the Respondent.

The Tribunal therefore unanimously confirms its decision of 20 August 2018 that a PFEO should be made, as amended in terms of its decision of 22 November 2018, as noted below.

Property Factor Enforcement Order

The First-tier Tribunal hereby makes the following PFEO:

Within 28 days of the date of communication to the Respondent of the property factor enforcement order, the Respondent must:-

1. Pay to Mrs Sampaio the sum of £500 for the inconvenience and distress she suffered.
2. Pay to the Doctors the total sum of £500 for the inconvenience they have suffered.
3. Pay to Mr Montgomery the sum of £600 for the inconvenience and stress he has suffered.
4. Pay to Mr Hyslop the sum of £1,000 for the inconvenience and stress he has suffered.
5. Provide documentary evidence to the tribunal of the Respondent's compliance with the above Property Factor Enforcement Order by sending such evidence to the office of the First-tier Tribunal (Housing and Property Chamber) by recorded delivery post.

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

A homeowner or property factor 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.

Patricia Anne Pryce

_____ Legal Member and Chair

2 January 2019 _____ Date