

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/LM/18/0605

Re: Inverbreakie Drive, Invergordon, IV18 0HZ (“the Development”)

The Parties:-

Ms Sandra Kennedy, 84 Inverbreakie Drive, Invergordon, IV18 0HZ (“the Homeowner”)

Highland Residential, 94-104 High Street, Invergordon, IV18 0DL (“the Factor”)

Tribunal Members:-

Ms Helen Forbes

Mr Mike Scott

The Tribunal has decided that it should make a PFEO in the terms originally proposed by it. The decision of the Tribunal is unanimous

Reasons for Decision

In the Tribunal’s decision of 22nd August 2018, it proposed to make a PFEO as follows:

“The Factor is required, within 21 days of intimation of the PFEO, to pay the sum of £150 from their own funds and at no cost to the development homeowners, in order to compensate the Homeowner for the distress, frustration and inconvenience caused as a result of the Factor’s failure to comply with the Property Factor Code of Conduct.”

The Tribunal’s decision was intimated to the parties on 5th September 2018. The Tribunal indicated that, prior to making a PFEO, it would provide the parties with a period of fourteen days within which to make representations under section 19(2)(b) of the Act.

By letter dated 28th September 2018 the Homeowner wrote to the Tribunal regarding further information in relation to the case. The Homeowner did not make any timeous representations on the terms of the proposed PFEO.

The Factor did not make any representations following the issuing of the decision and proposed PFEO.

The Tribunal confirmed its decision made on 22nd August 2018 in terms of Section 19(1)(a) of the Act. The Tribunal agreed that it would be appropriate to make a PFEO.

Property Factor Enforcement Order

The First-tier Tribunal hereby makes the following PFEO:

The Factor is required, within 21 days of intimation of the PFEO, to pay the sum of £150 from their own funds and at no cost to the development homeowners, in order to compensate the Homeowner for the distress, frustration and inconvenience caused as a result of the Factor's failure to comply with the Property Factor Code of Conduct.

Failure to comply with a PFEO may have serious consequences and may constitute an offence.

Right of Appeal

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.

Helen Forbes

Legal Member and Chairperson

13th October 2018