

Housing and Property Chamber First-tier Tribunal for Scotland



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

Proposed Property Factor Enforcement Order ("PFEO"): Property Factors (Scotland) Act 2011 Section 19(2)(a)

Chamber Ref: FTS/HPC/PF/19/0970

Re : The Fairways, Flat 6, 823 Clarkston Road, Glasgow G44 3UZ ("Property")

The Parties:-

Geraldine Stewart, The Fairways, Flat 6, 823 Clarkston Road, Glasgow G44 3UZ ("Homeowner")

Sonya Bader, 3 Bishops Gate, Wellknowe Avenue, Thorntonhall, Glasgow G74 5AR ("Homeowner's Representative")

McCarthy & Stone, Retirement Lifestyles Limited, 4th Floor, 100 Holdenhurst Road, Bournemouth, Dorset BH8 8AQ ("Factor")

Tribunal Members:

Joan Devine – Chairing and Legal Member

Mary Lyden – Ordinary Member

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

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

The Factor will pay to the Homeowner within 21 days of the date of service this order the sum of Two Hundred and Fifty Pounds (£250) from their own funds and at no cost to the homeowners within the Development at The Fairways in order to compensate the Homeowner for the distress caused as a result of the Factor's failure to comply with the Property Factors Code of Conduct.

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 First-tier 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 First-tier Tribunal by no later than 14 days after the date that the Decision and this proposed PFEO is sent to them by the First-tier Tribunal. If no representations are received within that timescale, then the First-tier Tribunal is likely to proceed to make a property factor enforcement order without seeking further representations from the parties.

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

J Devine

Legal Member and Chair

11 July 2019

Date