

Housing and Property Chamber First-tier Tribunal for Scotland



Notice of proposal to make a Property Factor Enforcement Order made under Section 19(2)(a) of the Property Factors (Scotland) Act 2011 (“the Act”) following upon a Decision of the Housing and Property Chamber of the First-tier Tribunal for Scotland in an application under Section 17(1) of the Act

Chamber reference: HOHP/PF/16/0137

The Property: 1 Craigard Apartments, Ardconnel Terrace, Oban PA34 5DJ (‘the property’)

The Parties:

Mrs Mairi Bryce, 1 Craigard Apartments, Ardconnel Terrace, Oban PA34 5DJ (‘The Homeowner’)

Calum MacLachlainn and Nicola MacPhail, trading as West Lettings, having a place of business at 9 Combie Street, Oban PA34 4HN(‘The Property Factor’)

Tribunal Members – George Clark (Legal Member) and Sara Hesp (Ordinary Member)

This document should be read in conjunction with the Tribunal’s Decision under Section 19(1)(a) of the Act of the same date.

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

“Within 4 weeks of the communication to the property factor of the PFEO, the property factor shall pay to the owners of the 12 flats comprising Craigard Apartments the total sum of £60 by way of compensation for the loss of interest they would have obtained had the property factor lodged the sums held as a sinking fund in an interest-bearing account during the period of the factoring arrangement ”

Section 19 of the Act provides as follows:

“... (2) In any case where the tribunal proposes to make a property factor enforcement order, they 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 them.

(3) If the tribunal are 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 committee must make a property factor enforcement order..."

The intimation of the Tribunal's Decision and this notice of proposal to make a PFEO to the parties should be taken as notice for the purposes of section 19(2) (a) of the Act and parties are hereby given notice that they should ensure that any written representations which they wish to make under section 19(2) (b) of the Act reach the Tribunal's office by no later than 14 days after the date that the Decision and this notice 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 ("PFEO") 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.