

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Proposal regarding the making of a Property Factor Enforcement Order: Property Factors (Scotland) Act 2011 Section 19(2)

Chamber Ref: FTS/HPC/PF/17/0252

Re: Flats 101, 205, 302 and 401 Clarence House, 37 Carnoustie Street, Glasgow, G5 8PN

The Parties:-

Mr Paul Wood, Euro House, 423 Hillington Road, Hillington Park, Glasgow, G52 4BL
("the Homeowner")

Newton Property Management, 87 Port Glasgow Road, Glasgow, G4 0HF ("the
Factor")

Tribunal Members

Ms Helen Forbes (Legal Member)

Mr Andrew Murray (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"):

'Within 30 days of intimation of the PFEO to the Factor, the Factor must:

- 1) Remove the charge for the legal fees incurred by Nick Swan from the accounts of the Homeowner;
- 2) Remove all late payment charges that relate to (a) the legal fees incurred by Nick Swan; and (b) the charges for electricity to the common areas from the accounts of the Homeowner;
- 3) Register with Registers of Scotland a Discharge in relation to all Notices of Potential Liability for Costs that are registered against the Clarence House properties owned by the Homeowner, and provide documentary evidence

from the Keeper of the Registers of Scotland to the Tribunal that such Notices have been, or are in the process of being, discharged.'

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 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.

H Forbes

Legal Member and Chairperson

26th March 2018