

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) (“the Act”)

Chamber Ref: FTS/HPC/PF/17/0059

**Flat 3, 9 Church Hill, Paisley PA1 2TG
 (“The Property”)**

The Parties:-

**Mr ROSS LAFFERTY, Flat 3, 9 Church Hill, Paisley PA1 2DG
 (“the Applicant”)**

**SPEIRS GUMLEY PROPERTY MANAGEMENT, 194 Bath Street, Glasgow, G2 4LE
 (“the Respondent”)**

Tribunal Members:

**Graham Harding (Legal Member)
 Colin Campbell (Ordinary Member)
 (“the Tribunal”)**

This document should be read in conjunction with the First-tier Tribunal’s Decision of 27 June 2017.

Decision

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 27 June 2017, it proposed to make a PFEO as follows:

- (1) The Respondent must pay the Applicant £100.00 for the inconvenience he has suffered from its own funds and at no cost to the owners. The said sum to be paid within 28 days of the communication to the Respondent of the Property Factor Enforcement Order.
- (2) The Respondent must issue a credit note to the applicant in the sum of £34.56 within 28 days of the communication to the Respondent of the Property Factor Enforcement Order.

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 June 2017.

The Respondents sought a review of the Tribunal's decision which was granted and a review hearing took place on 2 November 2017.

Following the review, the Tribunal by a Decision dated 17 November 2017 upheld its original decision to make a PFEO.

At the review hearing the Respondents sought leave to appeal the Tribunal's decision to the Upper Tribunal in the event of the Tribunal upholding its original decision and this was granted in the Tribunal's decision of 17 November 2017.

The Respondents appeal was heard by the Upper Tribunal and its decision refusing all of the grounds of appeal insisted upon was issued on 30 May 2018.

The Tribunal therefore now confirms its decision made in terms of Section 19(1)(a) of the Act with no amendments.

Property Factor Enforcement Order

The First-tier Tribunal hereby makes the following PFEO:

- (1) The Respondent must pay the Applicant £100.00 for the inconvenience he has suffered from its own funds and at no cost to the owners. The said sum to be paid within 28 days of the communication to the Respondent of the Property Factor Enforcement Order.
- (2) The Respondent must issue a credit note to the applicant in the sum of £34.56 within 28 days of the communication to the Respondent of the Property Factor Enforcement Order.

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.

Graham Harding

Legal Member and Chair

12 June 2018

Date