



Decision and Certificate of Compliance with Letting Agent Enforcement Order in terms of Section 50(1) of the Housing (Scotland) Act 2014

Chamber Ref: FTS/HPC/LA/19/3383

Flat 2/1, 27 Daisy Street, Glasgow G42 8JN ("the property")

The Parties:-

Mr Zumurd Hussain Raja, residing at Flat 1/2, 46, Albert Road, Glasgow G42 8DN, per his wife and agent Ms Nazreen Akhtar, Naz Home Services, 32, Osprey Avenue, Chatham, Kent ME5 7HY ("the Applicant")

Allied Homes Ltd, 266, Allison Street, Crosshil, Glasgow G42 8RT ("the Letting Agents")

The Tribunal:-

David M Preston, Legal Member & Chair

Ms Elizabeth Williams, Ordinary Member

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the tribunal"), having determined that the Letting Agent has complied with the Letting Agent Enforcement Order dated 28 January 2020 ("the LAEO"), certifies that the Letting Agents have complied with the LAEO.

Reasons for Decision:

1. On 2 June 2020 the tribunal granted a Notice of Failure to Comply with the LAEO which was issued to the parties on 18 June 2020.
2. On 19 June 2020 the letting agents asked the tribunal to review its decision in relation to the Notice of Failure to Comply on the basis that they have been confused as to the procedure in relation to the LAEO and the procedure in relation to the tribunal's Decision in case number FTS/HPC/PR/3364 ("3364") which was the application for the determination that the landlord had failed to lodge the deposit paid by the applicants in relation to the tenancy of the property with a recognised tenancy deposit scheme. In 3364 the tribunal issued an Order

for the landlord to pay to the applicant sum of £500 terms Regulation 10 (a) of the Tenancy Deposit Scheme Regulations 2011.

3. On receipt of the Decisions in both cases, which were sent to them on 25 February 2020, the letting agents responded to HPC administration in relation to 3364 and had been told that on the expiry of the appeal period an Order would be sent to the applicant for enforcement. The letting agents said that they thought the same procedure would apply to this case ‘...as they did not know how this process worked...’ and were ‘...awaiting something further before making payment to the applicant...’. When the pandemic emerged they thought that everything must have been suspended as they heard nothing further until 26 May 2020 when both parties were sent the Compliance check pro forma. The letting agent responded on that date asking for information on how to make payment. They said that they did not know the onus was on them to contact the applicant to make payment and that they were confused because they had received the paperwork for both cases. On the basis that payment had not been made by 26 May 2020, the tribunal granted the Notice of Failure to Comply on 2 June 2020. The applicant responded to the Compliance check on 3 June 2020 to say that he had heard nothing from the letting agent.
4. Before the tribunal was able to respond to the respondents’ request for a review of its decision of 18 June 2020, by email dated 22 June 2020 the respondents advised that they had managed to contact the applicant and had paid both awards in full.
5. It is for the letting agent to familiarise themselves with the process of any application made to the tribunal in which they are involved.
6. On 5 August 2020 the applicant was asked to confirm that he had received payment. He responded by email on 10 August 2020 to confirm that he had received payment.
7. Accordingly, the tribunal is satisfied that the letting agent has complied with the terms of the LAEO.

Appeals

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.