

Housing and Property Chamber
First-tier Tribunal for Scotland



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

Letting Agent Enforcement Order: Housing (Scotland) Act 2014 Section 48 (7)

Reference number: FTS/HPC/LA/19/2998

Flat 1, 8 Riverview Place, Glasgow G5 8EB ("Property")

The Parties:-

Peter Meyer, residing at the Property

("Applicant")

Drumwhirn Property Letting Ltd t/a Newton Letting ("Letting Agent")

Letting Agent Registration Number LARN1906017

Tribunal Members :

Joan Devine – Legal Member

David Fotheringham – Ordinary Member

Whereas in terms of its decision dated 7 January 2020, the First-tier Tribunal for Scotland (Housing and Property Chamber) ("Tribunal") determined that the Letting Agent has failed to comply with the Letting Agent Code of Practice ("The Code") and in particular that the Letting Agent has failed to comply with the following aspects of the Code :

1. There had been a breach of Rule 17 in that it was not fair of the Letting Agent to insist on carrying out an inspection in the absence of the Applicant and without his consent.
2. There had been a breach of Rule 20 in that it was not reasonable to access a property without the consent of the tenant.
3. There had been a breach of Rule 23 in that the procedures adopted by the Letting Agent suggested that all members of staff at the Letting Agent were not aware of and compliant with the Code.
4. There had been a breach of Rule 28 and 111 of the Code in that the Letting Agent had insisted on carrying out an inspection of the Property in the absence of the Applicant and without his consent

The Tribunal now requires the Letting Agent to :

1. Review and amend their policies and procedures to ensure that they are fully compliant with the Code and in particular Rule 83 which states - *If the Tenant refuses access, you, the landlord or any third party have no right to enter the property using the keys without a Warrant.*
2. Carry out relevant staff training to ensure all members of staff are aware of and comply with the Code.
3. Pay to the Applicant the sum of £500 as compensation for the distress caused to the Applicant as a result of the failure to comply with the Code.

The Tribunal orders that steps and payment specified in this Order must be carried out and completed within the period of 6 weeks from the date of service of this Order.

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

Please note that in terms of section 51(1) of the Act, a Letting Agent who, without reasonable excuse, fails to comply with a LAEO commits an offence liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Joan Devine, Legal Member