



**STATEMENT OF DECISION TO SERVE A NOTICE OF FAILURE TO COMPLY  
WITH A LETTING AGENT ENFORCEMENT ORDER ON THE SCOTTISH  
MINISTERS UNDER SECTION 50(2) OF THE HOUSING (SCOTLAND) ACT 2014**

**Chamber References: FTS/ HPC/LA/18/0517 and FTS/ HPC/LA/18/0908**

**Parties:**

**Mr Lindsay Chick, residing at 17 Morris Court, Bapchild, Sittingbourne,  
Kent ME9 9PL ("the first applicant")**

**Mr David Chick, residing at 104 Peregrine Drive, Sittingbourne, Kent ME10  
4UP ("the second applicant")**

**and**

**Letting Hamilton Limited, incorporated in Scotland under the Companies Acts  
(SC507543) and having their Registered Office at 4d Auchingramont Road,  
Hamilton ML3 6JT and trading as Lets by Location / Location ("the letting  
agents")**

**Tribunal members:**

**David M Preston (Legal Member); and Ms Ann MacDonald (Ordinary Member)  
("the tribunal")**

On 15 July 2018, the First-tier Tribunal for Scotland Housing and Property Chamber ("the Tribunal") issued a Letting Agent Enforcement Order ("the Order") on the Respondents in respect of a failure to comply with the Letting Agent Code of Practice, made under the Letting Agent Code of Practice (Scotland) Regulations 2016

**The Order contained the following provisions:**

**Within 4 weeks of the communication to the Respondents of this Letting  
Agents Enforcement Order, the Respondents shall:**

- 1. Formally terminate the agency with both applicants;**
- 2. Pay to the first applicant the sum of £2928 being the total rent due to him  
in accordance with (One) the Statements dated: 28 November 2017; 28  
January 2018; and 28 February 2018 in respect of 37 Whistlebery Wynd;  
(Two) the Statements dated: 1 January 2018; 29 January 2018; and 26  
February 2018 in respect of 21 Cairnwell Gardens; and that without  
deduction of the termination fees and management fees detailed in the**

said statements or the repair to the grill in June 2016 in 21 Cairnwell Gardens.

3. Pay to the second applicant the sum of £4304 being the total rent due to him in accordance with (One) the Statements dated: 23 January 2018; 23 February 2018; and 23 March 2018 in respect of 17 James Murdie Gardens; (Two) the Statements dated: 29 January 2018; and 28 February 2018 in respect of 1 Wilkie Drive; and (Three) the Statements dated: 28 February 2018 in respect of 25 Cairnwell Gardens; and that without deduction of the termination fees and management fees detailed in the said statements.
4. Deliver a copy of the Gas Safety certificate obtained in respect of 1 Wilkie Drive to the second applicant.
5. Pay to the applicants the sum of £250 each by way of compensation for the inconvenience and effort occasioned by them in chasing the letting agents to carry out their duties.

The time allowed for compliance with the Order has expired and, by e-mail dated 10 September 2018, the Applicants stated that they had no contact from the Respondents and had not received payment from them of the sums due to be paid as required by the Order. The Respondents have not contacted the Tribunal since the Order was issued.

## **REASONS FOR THE DECISION**

The Applicants have confirmed that they have neither had any contact nor received any payment from the Respondents. The Respondents have not contacted the Tribunal to provide a reasonable excuse for their failure to comply. Accordingly, the Tribunal has determined that the Respondents have not complied with the terms of the Order and that, in terms of Section 50(2) of the Housing (Scotland) Act 2014, the Tribunal is obliged to serve notice of that fact on the Scottish Ministers.

## **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.

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



..... Chairman

16 October 2018