

Housing and Property Chamber

First-tier Tribunal for Scotland



Statement of Decision to serve on the Scottish Ministers a Notice of Failure to Comply with a Letting Agent Enforcement Order Enforcement Order under Section 50(2) of the Housing (Scotland) Act 2014

Property: 3 Neil Gordon Gait, Blantyre G72 0AP

Chamber reference: FTS/HPC/LA/18/0574

The Parties:

Greg Hanley, 11 Pommern Parade, Belfast, Northern Ireland BT6 9FX ("the Applicant"); and

Letting Hamilton Limited, incorporated in Scotland under the Companies Act (SC507543), having their registered office at 4d Auchingramont Road, Hamilton ML3 6JT, and trading as Location, 83 Cadzow Street, Hamilton ML3 6DY ("the Respondents")

Tribunal Members:

George Clark (Legal Member/Chair) and Ann MacDonald (Ordinary Member)

On 22 June 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 pay to the Applicant the sum of £952.38 by way of compensation for the loss caused to him by the failure of the Respondents to comply with paragraphs 21, 26 and 124 of the Letting Agent Code of Practice."

The time allowed for compliance with the Order expired and, by e-mail dated 31 July 2018 and subsequent e-mails, the Applicant stated that he had not received payment from the Respondents of the sum of £952.38, as required by the Order. The Respondents have not contacted the Tribunal since the Order was issued.

REASONS FOR THE DECISION

The Applicant has confirmed that he has not 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.

Signed

George Clark (Legal Member/Chair)

Date 18 September 2018