

Housing and Property Chamber

First-tier Tribunal for Scotland



First-tier tribunal for Scotland (Housing and Property Chamber)
("the tribunal")

Decision: Housing (Scotland) Act 2014 ("the 2014 Act"), Section 50

Chamber Ref: FTS/HPC/LA/18/0665

Mr Premkumar Raju Alamantha
("the Applicant")

Letting Hamilton Limited, a company registered under the Companies Acts
(Company number SC507543), and having its registered office at 4d
Auchingramont Road, Hamilton, Lanarkshire, Scotland, ML3 6JT, trading as
Location, 83 Cadzow Street, Hamilton, South Lanarkshire, ML3 6DY
("the Letting Agent")

Tribunal members

Susanne L M Tanner Q.C. (Legal Member)
Linda Reid (Ordinary Member)

DECISION

1. The period within which a letting agent enforcement order ("LAEO") dated 31 July 2018 required steps to be taken having expired, the tribunal reviewed whether the Letting Agent has complied with the order, in terms of Section 50 of the 2014 Act, and decided that the Letting Agent has failed to comply with the LAEO and has no reasonable excuse for failing to comply.
2. The tribunal will serve notice of the failure on the Scottish Ministers as required by Section 50(2) of the 2014 Act.
3. The tribunal's administration will report the Letting Agent to Police Scotland for investigation of a potential criminal offence in terms of Section 51 of the 2014 Act.
4. The decision of the tribunal is unanimous.

STATEMENT OF REASONS

5. The tribunal made a LAEO on 31 July 2018 in terms of Section 48 of the 2014 Act, specifying the steps the tribunal considered necessary to rectify the Letting Agent's failures, to be completed within the period of 7 days of intimation of the LAEO.
6. The LAEO and decision of the tribunal with statement of reasons were intimated to the parties on 6 August 2018. The period for the actions to be executed and payments to be made was by 14 August 2018.

Representations from parties

7. On 13 September 2018 the tribunal's administration advised the tribunal that the Letting Agent had closed the offices from which it was trading as Location, 83 Cadzow Street, Hamilton, South Lanarkshire, ML3 6DY. The tribunal instructed its administration to send correspondence to the registered address of the limited company at its registered office at 4d Auchingramont Road, Hamilton, South Lanarkshire, ML3 6JT and to Kenneth Stenhouse, Company Director, at the same address.
8. On 14 September 2018, the tribunal's administration wrote to parties to invite representations as to whether the Letting Agent had complied with the terms of the LAEO. The correspondence was sent to the registered office of the Letting Agent and its Company Director by recorded delivery.
9. On 18 September 2018 the Applicant responded to the tribunal's administration stating that the actions in the LAEO have not been completed. He stated that the specified sums of money have not been paid to him. He also advised that it appeared that the Letting Agent had closed its offices. He did not wish the tribunal to consider a variation or revocation of the LAEO.
10. No response was received from the Letting Agent, or the Company Director thereof, in relation to compliance or otherwise with the LAEO.
11. The Letting Agent has failed to provide the tribunal with documentary evidence of compliance with the LAEO.

Decision in terms of Section 50 of the 2014 Act

12. The tribunal is satisfied that the 7 day period within which the LAEO dated 31 July 2018 required steps to be taken has expired. The tribunal has reviewed whether the Letting Agent has complied with the order, in terms of Section 50 of the 2014 Act.
13. Taking into account the Applicant's submissions, the failure of the Letting Agent to engage in the process at any stage, including a failure to respond

regarding compliance or otherwise with the terms of the LAEO, and the fact that the Letting Agent has closed its offices in Hamilton, the tribunal decided that the Letting Agent has failed to comply with the LAEO and has no reasonable excuse for failing to do so, in terms of Section 50 of the 2014 Act.

14. The tribunal must serve notice of the Letting Agent's failure to comply on the Scottish Ministers, in accordance with Section 50 of the 2014 Act.

15. The tribunal will report the Letting Agent to Police Scotland for investigation as to a potential criminal offence in terms of Section 51 of the 2014 Act.

Appeals

16. An Applicant or Letting Agent 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.

S Tanner

Susanne L M Tanner QC
Legal Member and Chair

24 October 2018