

Housing and Property Chamber First-tier Tribunal for Scotland



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

**In an Application under section 48 of the Housing (Scotland) Act 2014
("the Act")**

by

**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")**

against

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

Re: Flat 2/1.27 Daisy Street, Glasgow G42 8J ("the Property")

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

Tribunal Members:

**David M Preston (Chairman) and Ms Elizabeth Williams (Ordinary
(Housing) Member).**

Decision

**The Tribunal hereby determines that the Respondent has failed to
comply with the Letting Agent Enforcement Order dated 24 February
2020.**

The decision is unanimous.

Reasons for Decision

- 1. The Tribunal issued a Letting Agent Enforcement Order ("LAEO") on 20
February 2020 in the following terms:**

"Within 4 weeks of the date of the communication to the Respondents of this Letting Agent Enforcement Order, the Respondents must:

Pay to the Applicants the sum of £500 by way of an apology for the terms of the emails sent by them to the applicants as detailed in the Decision and Statement of Reasons.

2. The LAEO was issued to the Respondents by email dated 26 February 2020.
3. Section 50 of the Act provides:
 - (1) *The first-tier Tribunal may, after the period within which a letting agent enforcement order requires steps to be taken, review whether the letting agent has complied with the order.*
 - (2) *If the Tribunal decides that the letting agent has failed to comply with the letting agent enforcement order it must notify the Scottish Ministers of that failure.*
 - (3) *But the Tribunal may not make such a decision if it is satisfied that the letting agent has a reasonable excuse for failing to comply.*
4. By email date 26 May 2020 the Respondents sought advice or guidance as to how they should pay the award to the Applicant, which clearly indicated that by 26 May 2020 they had not complied with the LAEO. It is assumed that their reference to "the circumstances in these difficult times" was related to the 'lockdown' situation surrounding the Scottish Governments efforts to prevent the spread of Covid 19. They asked whether they could make payment over a period of two months.
5. It is not appropriate for the tribunal to advise a registered letting agent on the operation of the Act or on any method of payment. Letting agents must familiarise themselves with the legislation surrounding their registration.
6. The tribunal considered that the period for compliance with the LAEO expired on 25 March 2020 which was sufficiently close to the commencement of the lockdown period that it was reasonable to expect that compliance would have been effected before the lockdown came into effect. In any event the steps to be taken comprised the issuing of a cheque or payment into the Applicant's bank account. Neither of these steps should have been affected by the lockdown.
7. The tribunal further considered that for no action to be taken before 26 May 2020, regardless of the lockdown was unreasonable on the part of the Respondents.

The Tribunal accordingly finds that the Respondent has not complied with the LAEO and the failure must be notified to the Scottish Ministers.

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.