



Decision with Statement of Reasons of a Hearing of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 48(6) of the Housing (Scotland) Act 2014 and the Rules of Procedure 2017 (contained in Schedule 1 of the Chamber Procedure Regulations 2017 (“the Procedure Rules”) Rule 95

Chamber Ref: FTS/HPC/LA/23/1061

**Re: Property at 5 Rattray Terrace, Lochgelly, Fife,
 (“the Property”)**

Parties:

James Connolly, 7 Constable Drive, Littleover, Derby, DE23 6EP (“the Applicant”)

Premiere Rentals Fife Ltd, 189 Commercial Street, Kirkcaldy, Fife, KY1 2HS (“the Respondents”)

Tribunal Members: Melanie Barbour (Legal Member) and Sandra Brydon (Ordinary Member)

Decision:

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Letting Agent has failed to comply with paragraphs 18, 26, 98, 99 and 119 of the Letting Agent Code of Practice under Section 46 of the Housing (Scotland) Act 2014.

BACKGROUND

1. On 31 March 2023 the Applicant lodged an application with the Tribunal seeking to enforce the Letting Agent Code of Practice against Premiere Rentals Fife Ltd. The Application was accepted on 2 May 2023.
2. A case management discussion took place on 18 July 2023. In attendance was Mr Connolly, the applicant and Mrs Stewart on behalf of the letting agent. The letting agent had submitted written



representations on 15 June 2023. The applicant confirmed that he had sight of those representations. The applicant summarised his case as follows: - His complaint related to two consecutive tenancies the first which ended in December 2019, and the second which ended in June 2021; and he advised that the time period that his complaint related to was from around December 2019 until June 2022. Reference is made to the full terms of that Note.

3. A hearing took place on 11 September 2023. In attendance was the applicant, James Connolly together with Kate Neill and Richard Campbell as his supporters; and the letting agent, Victoria Stuart with witness Gary Adamson.
4. The Applicant alleged the following breaches the code, namely: -

SECTION 2 Overarching standards of practice

16. You must conduct your business in a way that complies with all relevant legislation.
17. You must be honest, open, transparent and fair in your dealings with landlords and tenants.
(including prospective and former landlords and tenants).
18. You must provide information in a clear and easily accessible way.
19. You must not provide information that is deliberately or negligently misleading or false.
20. You must apply your policies and procedures consistently and reasonably.
21. You must carry out the services you provide to landlords or tenants using reasonable care and skill and in a timely way.
26. You must respond to enquiries and complaints within reasonable timescales and in line with your written agreement.
27. You must inform the appropriate person, the landlord or tenant (or both) promptly of any important issues or obligations on the use of the property that you become aware of, such as a repair or breach of the tenancy agreement.”

SECTION 3 Engaging landlords

Terms of business

30. You must agree with the landlord what services you will provide and any other specific terms of engagement. This should include the minimum service standards they can expect and the target times for taking action in response to requests from them and their tenants.



32. Your terms of business must be written in plain language and, alongside any other reasonable terms you wish to include, must clearly set out:

Authority to act

- (c) a statement about the basis of your authority to act on the landlord's behalf.
- (e) situations in which you may act without checking with the landlord first, for example urgent repairs.

Fees, charges and financial arrangements

- (f) your management fees and charges (including taxes) for your services, and your processes for reviewing and increasing or decreasing this fee.
- (g) how you will collect payment including timescales and methods and any charges for late payment.

Communication and complaints

- (j) that you are subject to this Code and give your clients a copy on request. This may be provided electronically.
- (k) how you will communicate (including the use of electronic communication (4) with landlords and tenants, and the timescales within which you could be reasonably expected to respond to enquiries.
- (l) your procedures for handling complaints and disputes between you and the landlord and tenants and the timescales within which you could be reasonably expected to respond.
- (m) how a landlord and tenant may apply to the Tribunal if they remain dissatisfied after your complaints process has been exhausted, or if you do not process the complaint within a reasonable timescale through your complaints handling procedure.

Professional indemnity insurance

- (o) confirmation that you hold professional indemnity insurance or equivalent protection through another body or membership organisation and that further details (such as the name of your provider, your policy number and a summary of the policy) are available from you on request.

Handling client money

- (p) how you handle clients' money; confirmation that you hold client money protection insurance or equivalent protection through another body or membership organisation and that further details (such as the name of your provider, your policy number and a summary of the policy) are available from you on request.



How to change or end the terms of business

(q) clear information on how to change or end the agreement and any fees or charges (inclusive of taxes) that may apply and in what circumstances. Termination charges and related terms must not be unreasonable or excessive.

Ending the agreement

37. When either party ends the agreement, you must:

(a) give the landlord written confirmation you are no longer acting for them. It must set out the date the agreement ends; any fees or charges owed by the landlord and any funds owed to them; and the arrangements including timescales for returning the property to the landlord – for example, the handover of keys, relevant certificates and other necessary documents. Unless otherwise agreed, you must return any funds due to the landlord (less any outstanding debts) automatically at the point of settlement of the final bill.

SECTION 4 Lettings

Applications

54. You must agree with the landlord the criteria and process for managing and approving tenancy applications from prospective tenants.

55. You must inform the landlord in writing of all applications made on the property as soon as possible, unless agreed otherwise with the landlord, along with all relevant information about the offer and the applicant.

References and checks

57. You must agree with the landlord what references you will take and checks you will make on their behalf.

61. You must take all reasonable steps to confirm the applicant's identity and to verify references, in line with your agreement with the landlord.

Tenancy agreement

62. If you prepare a tenancy agreement on the landlord's behalf, you must ensure it meets all relevant legal requirements and includes all relevant information (such as the name and address of the landlord or name



and address of the letting agent and the identity of the landlord; type; length of tenancy where it is a short assured tenancy; amount of rent and deposit and how and when they will be paid; whether it is a house in multiple occupation; as well as any other responsibilities on taking care of the property, such as upkeep of communal areas and the cleaning required at the end of the tenancy); and any specifically negotiated clauses (for instance whether there will be landlord or agent inspections/visits) agreed between the landlord and the prospective tenant. The agreement must also include the landlord's registration number.

Moving in (inventory/check-in)

68. If you are responsible for managing the check-in process, you must produce an inventory (which may include a photographic record) of all the things in the property (for example, furniture and equipment) and the condition of these and the property (for example marks on walls, carpets other fixtures) unless otherwise agreed in writing by the landlord. Where an inventory and schedule of condition is produced, you and the tenant must both sign the inventory confirming it is correct.

SECTION 5 Management and maintenance

73. If you have said in your agreed terms of business with a landlord that you will fully or partly manage the property on their behalf, you must provide these services in line with relevant legal obligations, the relevant tenancy agreement and sections of this Code.

74. If you carry out routine visits/inspections, you must record any issues identified and bring these to the tenant's and landlord's attention where appropriate (see also paragraphs 80 to 84 on property access and visits, and paragraphs 85 to 94 on repairs and maintenance).

75. Breaches of the tenancy agreement must be dealt with promptly and appropriately and in line with the tenancy agreement and your agreement with the landlord.

Rent collection.

76. You must have appropriate written procedures and processes in place for collecting and handling rent on the landlord's behalf. These must set out how the late payment of rent will be handled and the legal requirements on tax deductions from rent received on behalf of non-resident or overseas landlords and the subsequent payment and reporting requirements. This should outline the steps you will follow and be clearly, consistently and reasonably applied.

78. You should inform the landlord in writing of the late payment of rent, in line with your written procedures or agreement with the landlord.

79. In managing any rent arrears, you must be able to demonstrate you have taken all reasonable steps to recover any unpaid rent owed to the landlord (see also section 8).



Carrying out repairs and maintenance

85. If you are responsible for pre-tenancy checks, managing statutory repairs, maintenance obligations or safety regulations (e.g., electrical safety testing; annual gas safety inspections; Legionella risk assessments) on a landlord's behalf, you must have appropriate systems and controls in place to ensure these are done to an appropriate standard within relevant timescales. You must maintain relevant records of the work.

86. You must put in place appropriate written procedures and processes for tenants and landlords to notify you of any repairs and maintenance (including common repairs and maintenance) required, if you provide this service directly on the landlord's behalf. Your procedure should include target timescales for carrying out routine and emergency repairs.

90. Repairs must be dealt with promptly and appropriately having regard to their nature and urgency and in line with your written procedures.

93. If there is any delay in carrying out the repair and maintenance work, you must inform the landlords, tenants or both as appropriate about this along with the reason for it as soon as possible.

SECTION 6 Ending the tenancy.

Bringing the tenancy to an end

98. You must have clear written procedures in place for managing the ending of the tenancy (including where the tenancy is brought to an end by the landlord, or by the tenant or joint tenant; the landlord intends to seek eviction and where a tenancy has been abandoned); the serving of appropriate legal notices; and giving the landlord and tenant all relevant information.

99. You must apply your policy and procedures consistently and reasonably.

Inventory/check-out

101. Before they leave the property you must clearly inform the tenant of their responsibilities such as the standard of cleaning required; the closing of utility accounts and other administrative obligations, e.g., council tax, in line with their tenancy agreement. You must offer them the opportunity to be present at the check-out visit unless there is good reason not to. For example, evidence of violent behaviour.

102. If you are responsible for managing the check-out process, you must ensure it is conducted thoroughly and, if appropriate, prepare a sufficiently detailed report (this may include a photographic record) that makes relevant links to the inventory/schedule of condition where one has been prepared before the tenancy began.



104. You must give the tenant clear written information (this may be supported by photographic evidence) about any damage identified during the check-out process and the proposed repair costs with reference to the inventory and schedule of condition if one was prepared.

SECTION 7 Communications and resolving complaints.

Communications

108. You must respond to enquiries and complaints within reasonable timescales. Overall, your aim should be to deal with enquiries and complaints as quickly and fully as possible and to keep those making them informed if you need more time to respond.

110. You must make landlords and tenants aware of the Code and give them a copy on request, electronically if you prefer.

Complaints resolution

112. You must have a clear written complaints procedure that states how to complain to your business and, as a minimum, make it available on request. It must include the series of steps that a complaint may go through, with reasonable timescales linked to those set out in your agreed terms of business.

Client accounts

120. You must be able to account immediately to them for all money held on behalf of clients.

124. You must ensure clients' money is available to them on request and is given to them without unnecessary delay or penalties, unless agreed otherwise in writing (for example to take account of any money outstanding for agreed works undertaken).

125. You must pay or repay client money as soon as there is no longer any need to retain that money. Unless agreed otherwise in writing by the client, you should where feasible credit interest earned on any client account to the appropriate client.

Debt recovery

129. When you contact landlords, tenants or guarantors who owe you money, you or any third party acting on your behalf must not act intimidatingly or threateningly. Nor must you knowingly or carelessly misrepresent your authority and/or the correct legal position.

Professional indemnity arrangements



132. You must give further details (such as the name of your provider, your policy number and a summary of your policy) to them on request.

Criminal activity

137. You must notify the appropriate authorities, such as the Police or National Crime Agency if you suspect any person using your services is engaged in money laundering, human trafficking, or another criminal activity.

THE HEARING

5. The applicant was asked to take the tribunal through his complaint. He advised that there had been criminal damage; theft; breach of contract law; breach of consumer law; and a key area was fraudulent practice. In terms of criminal damage. He advised that there had been destruction to the décor in the property. Items had been removed or destroyed. Whether it was by the letting agent or the tenant, he advised that there was a possibility that it was the letting agent, as they had confirmed that the tenant had not taken items or damaged property. Therefore, it had to be someone else, and he suggested that it must be the letting agent. He advised he did not have the information to confirm if the damage was criminal damage to the property or who caused it, this was because he did not have all the check-in and check-out reports.
6. *Condition of the property*
7. In terms of criminal damage, he referred to the end of the second tenancy. He referred to his Appendix 9, the photographs of the property. By way of example, he referred to the hallway photograph, there had been destruction to the décor. He said that the photos showed the condition at the start of the tenancy (the check-in report said it had been in a reasonable condition and sometime after, the photos showed that the wallpaper and hallway walls had been damaged. He suggested it was possible that it had been the letting agent who had caused the damage because the agent claimed the tenant had not caused the damage or stolen the items.
8. In response the letting agent advised that photos are taken as secondary evidence at the end of the tenancy. They advised that they provide the photos if requested. They still have the photos of the property. In this case they advised that the property was in a state of upheaval at the end of the tenancy, they had been trying to get the property organised and get the remedials carried out to the



property. If any items had been taken, they would have investigated this. They noted it was an unfurnished property. They agreed that the tenant had repainted parts of the property this had been noted in the inspection and advice given to the tenant.

9. The agent further advised that the applicant, Mr Connelly had told the agent, after the end of the tenancy that he wanted to pass the management of the property to his nephew. The letting agent advised that it was then unclear for a period of time who was responsible for what in managing the tenancy, and ~~when~~ at what point the management of the property was passed to his nephew. They advised that the nephew had allowed the tenant to go back into the property, after she had abandoned it and after the tenancy had come to an end. The agent said that they had advised the nephew against allowing the tenant back into the property after she had left it. The nephew however agreed that the tenant could return and do some redecoration. The agents thought that the tenant may have removed items at that time. They advised that at check-out the blinds were still in the property. The agent advised that in relation to the criminal damage allegation, they would not class the issue as damage, the tenant had redecorated the property when she was living in it. The letting agent had asked the applicant for more information and to clarify what he was not happy about; the applicant had referred to wallpaper.
10. The applicant advised that the damage to the hall had been identified during an inspection. The landlord advised that he had not reported his concern of criminal damage to the police, as he needed the information (check-out and check-in reports) to go to the police. He referred to other areas which had been damaged. He referred to the lounge, he said the walls were usually magnolia, but at the end of the left, the wallpaper had been removed.
11. In relation to the applicant's position that there had been a breach of contract, he said that there had been fraudulent practice. He advised that the letting agent told him that the landlord had to pay for any shortfall in remedial work. In his opinion, it was the tenant who should pay for any shortfall in repairs and remedial works, not the landlord. He referred to the tenancy deposit versus the cost of making good the property. The landlord advised that the tenancy agreement specifies it is the tenant who is liable for damage to the tenancy. He suggested that the letting agent needed to identify those elements. The landlord advised that he did not have details of what had gone wrong in the tenancy and the extent of the criminal damage. The applicant advised that he had not seen the property himself as he lives 300 miles away from it.



12. He referred to the statement In Appendix 4. He advised that the letting agents forwarded a remittance statement. It referred to rent payments, he considered this was wrong, those sums were tenancy deposit funds. He submitted that the letting agent taking their management fee of 10% was fraudulent, as they had been paid tenancy deposit not rent, and he believed that the letting agents were not entitled to deduct their fee from the deposit, as the deposit should have been allocated against the cost of redecoration. This was not done. He also thought it was not relevant that £200 of the tenancy deposit was for tenant's cats and any costs incurred for damage due to the cats. He accepted that the costs of the work done by the handyman and electrical services should have been deducted from the tenancy deposit. He also accepted that there was still outstanding rent.
13. The applicant advised that the rental account provided was incorrect. The tenant made herself bankrupt. The statement of rent did not set out what the landlord had paid to the letting agent. He said that the account was incorrect in relation to the entries in March 2020. The applicant advised that there were a number of payments on 30 April 2020. He said that there are a number of amounts shown that he did not understand. The tenancy had lasted for seventeen and a half months. Rent was £525 per month. The tenant had paid £5,900. The rent account shows a balance due by the tenant of £2,543.42. He advised that he had received another statement of account which has a different value, it shows £725 less than the account statement he had lodged. (He had not lodged the other account.) He considered that the total rent which should have been paid was £9,700.
14. The letting agent advised that the rental account automatically allocates monies coming in, i.e., the tenancy deposit would be allocated to missing rent. She advised that this can be amended if the applicant brings it to their attention. The letting agent advised the rent account is correct. They use a system called CFP. The system is used across the country by most letting agents. The money comes in and the accounting system allocates it, as either rent or money for work to be done. She advised that you cannot "fiddle" with it. She accepted that it could appear difficult to read. The account provided only shows the tenant's rent account.
15. Fees and electrical costs etc, are shown on the landlord's statement of account. She advised that during the Covid period, there were rent holidays given. She advised the Covid rent reduction is



not shown on the rent account. She referred to the rent account and advised that the payments of £200 and £300 on 2 and 9 March are shown as unallocated, she suggested that they may have received payments in dribs and drabs. That can be why several payments are made.

16. Mr Connelly thought that the references on 30 April 2020 were rent relaxations. He advised that he did not know if the rent relaxations had been handled in the same way the following year. He advised that he was challenging the actual amounts.
17. In terms of breach of contract. He advised that the letting agent said that the landlord had to make payments due in terms of the indemnity clause. He suggested that this was a contract between landlord and letting agent. He said that a breach under the tenancy agreement, the direct costs of remedials were due under the tenancy contract. He submitted that the landlord cannot be liable, as the landlord does not owe for the remedials. He submitted that the letting agent was not entitled to direct that the landlord should have to pay for the remedial costs for the property. The letting agent has an end of tenancy procedure. The letting agent should identify the damage and missing items and bring that to the attention of the tenant. The landlord submitted that the letting agent was working on his behalf. He submitted that the letting agent had not advised the tenant that these amounts were outstanding. He said they consider that this had been raised in their email exchange.
18. The letting agent advised that they had explained to the landlord that any costs over and above sums held as a tenancy deposit, had to be paid by the landlord. They had also advised that the landlord can go to the Housing and Property Chamber to try and recover losses from the tenant and, can seek a time to pay order. They advised that this tenant abandoned the property. The letting agent had served an abandonment notice and the tenant had gotten in touch and confirmed that she had left the property. She had later handed the keys back to the letting agent. After that the landlord's nephew had allowed the tenant back into the property. The letting agent had tried to contact the tenant about the arrears. However, she was later declared bankrupt.
19. The letting agent explained the process at the end of a tenancy. What would normally happen when the tenant had abandoned the property was that they would try and contact the tenant. They would also check if/where the tenant was working and try to contact them there. In this case, the tenant was not working, further she had not been keeping well, and when they did eventually get in touch with her, they told her the property should have been put back to the original décor scheme.



20. The letting agent advised that they assess the condition of a property at the end of a tenancy and can obtain estimates. The letting agent advised that they found the house to be abandoned. They served a notice to leave on the tenant, and there was an end date in the notice. The tenant called the letting agent to advise that she had left the property. The agents advised that the check-out report was carried out on 16 June 2021.
21. On 27 June 2021 the landlord advised the agents that his nephew would be organising matters regarding the tenancy. When the applicant's nephew became involved, he said he would liaise directly with the tenant and allow her in to do the redecoration. The letting agent had advised the nephew against letting the tenant back in. The nephew advised that he had been in touch with the tenant, and she would redecorate the property. They understood that the tenant had painted two walls in the house.
22. The letting agent advised that the locks were changed in August 2021. The letting agent was asked the date of the lock change. They advised that there had been a gap in arranging for the locks to be changed. They advised this was due to the nephew arranging for the tenant to carry out redecoration. The tenant did not carry out all of the redecoration works and eventually, they proceeded to change the locks. They advised that they had organised the lock change as they had a company who did this work. They were not acting as letting agents at this time.
23. The applicant advised that he did not think that the letting agent had any option but to put the check-out package together, notwithstanding that he had asked his nephew to deal with the property. He advised that the nephew was going to deal with the property going forward.
24. In terms of breach of consumer law. He submitted that that breach was that the letting agent denied the landlord the right to have the property brought back into a fit and reasonable condition.
25. The applicant advised that the letting agent should have followed the procedure for ending the tenancy. He advised that the letting agreement, sets out a procedure in the code for ending the tenancy and it should have been followed.



26. The letting agent advised that they had carried out the check-out in accordance with their procedures. They had also taken photos of the property. They had answered all the emails that the landlord had sent to them. They highlighted that the landlord had referred to the removal of a chandelier and this was not true. The letting agent advised that they had struggled to deal with the landlord as there could be months when he would not respond to their emails. At one stage they had contacted the nephew to find out if the landlord was ok. They would send emails and get no reply, on other occasions he would reply promptly. They advised that the landlord sometimes took months to pay for necessary works to the property. They advised that they had a duty to do electrical works and it had taken months for the landlord to confirm the work could go ahead.
27. The applicant referred to the chandelier and non-payment of the bill for 3 months. He advised that there had no evidence before him that the bills had not been paid for three months. In relation to the chandelier, he said it was referenced in the inventory and checkout report and email correspondence. The applicant advised that the tenant was allowed back into the property to pick up her tattoo equipment, and the rest of her stuff was disposed of by her.
28. The letting agent advised that the checkout report shows that the blinds were in place, however, then the nephew let the tenant in, and the blinds appear to have been removed after the tenant had gone back in.
29. The applicant advised that the letting agent withheld information. The landlord's term and conditions include tenant repairs. The applicant advised that the letting agent failed to manage the tenancy agreement. He said that they did not know the letting agent's code of conduct. The agent had falsified remittances, they had been indifferent to complaints. They had exceeded their authority in serving a notice to leave without consultation with the landlord. They had allowed the tenant to breach the tenancy agreement. They had failed to declare that the tenant had abandoned the property. They were not prepared to manage their procedures in their management role. The applicant said that there was a possible rental theft as he considered that the account statement he had been given was incorrect.
30. The applicant thought that the letting agent had defrauded him in relation to the tenant's bankruptcy. There had been forms to complete for the bankruptcy, about the process of establishing the total money due. The applicant said that it had to be completed by the letting



agent. He thought that the figure should have included actual monies due, namely rent and remedials. This information had not been provided in the bankruptcy statement. The applicant did not know if the letting agent had contacted the bankruptcy administrators to advise that there were more monies due.

31. The applicant referred to the condition of the tenancy. He advised that some rooms had been decorated in a poor manner by the tenant and there were items in the property which were no longer there at the end of the tenancy. He referred to the removal of the Intruder alarm, it was worth £500, and it was there during the first tenancy, but it was not listed in the second inventory report. He said it was not in the first inventory report either; further the cutlery and items in the kitchen were also not listed in the inventory. The applicant said that there was gross failure in the checkout report. There were missing items, for example lighting, gross errors in the decoration, and photos were to be included and had not been included. He said that the check-out report was subject to the code of practice.
32. The letting agent advised that they assess the condition of a property at the end of a tenancy and can obtain estimates. The letting agent advised that they found the house to be abandoned. They served a notice to leave on the tenant, and there was an end date in the notice. The tenant called the letting agent to advise that she had left the property. The agents advised that the check-out report was carried out on 16 June 2021.
33. The letting agent advised that the landlord received an email with advice about quotes. The agent advised that at the end of the tenancy, they will usually email the landlord about what has happened and what needs to be done to bring the property up to scratch, the issue of faults with the cooker would not have been known at that stage. The agents will ask for quotes at the same time. They will send quotes out to the landlord.
34. In relation to the first tenancy which ended in December 2019, the applicant advised he had asked for the check-out report and estimates, but the requests were ignored. He did not receive a response and has not received the check-out report for the first tenancy. At the end of the first tenancy, the walls had been painted by the tenant. The repairs were not addressed with the tenancy deposit scheme. He said that he did not get copies of the checkout report in 2019 but did get emails about the condition of the property.



35. In relation to the second tenancy the applicant advised that he had agreed to waive 6 months' rent and a further £975, the tenant had paid some money, but he did not believe that the tenant was told the money had been waived.
36. The applicant said that one inspection had been carried out during the second tenancy, this had allowed the tenant to breach the tenancy. The breaches highlighted in the inspection report were not rectified and then increased, and these breaches caused loss to the landlord. Further visits were carried out in May 2021 and the property was in the same state as in September 2020.
37. The applicant advised that he did not have a copy of the tenancy agreement, it was not made available to him.
38. The second tenant painted the walls and changed the decor without permission. The letting agent knew about this and did not address it. They should have requested that the tenant address these matters. He did not give approval for the painting. He referred to the letting agent's inspection report of 8 September 2020. He said that by not telling the tenant to repaint the wall they set the template for the deterioration of the property. He said that the agents did not inform him of the breaches of the tenancy when they became aware of it.
39. He said that there had been a failure to manage the check-in process. He did not receive the check-in or check-in out report. He said that he had only now received the check in and check-out reports for the tenancy. He said that there were items missing from the initial inventory in the check-in e.g., the intruder alarm was not shown on the first inventory and therefore not shown on the second one.
40. The applicant referred to the failure to manage the end of the first tenancy. He said that the first check out report had only been sent to him a few weeks ago. He said that the report had been requested and should have been provided earlier. He said that there were elements which should have been dealt with by the tenant. He said he had emails saying it was kept in good condition, but it appeared to have deteriorated within a few months.



41. He said that he had not been kept up to date with monthly statements of payments. He had with the first tenancy but not the second tenancy. There were gaps in rent payments, and he was not made aware of these gaps. He said that he did not know when the second waiver was given in addition to the previous rent holidays. In terms of management of the rent arrears. He asked for the agent's procedure but did not get copies at the time of request. He did not know what the letting agent did in terms of following procedures.
42. He was unhappy about the procedures for providing check out reports. If there are issues in these reports and they are not given to the landlord, the landlord will not know what should be addressed.
43. In terms of the inspection, if items of disrepair were noted, the applicant did not know what advice the tenant had been given about those items. He thought it should have been addressed as it affected getting recovery of the costs of repair. He did not think that he had received the written report of the findings including the need to retain some or all of the deposit. He did not think that the procedures confirmed what happened to the tenancy deposit.
44. He said that the agent became aware the tenant smoked and she had destroyed the smoke alarm and was aware when the electrical testing carried out.
45. The tenancy came to end shortly after the tenant was declared bankrupt. He was not sure if the letting agent had completed the form to the accountant properly and put in all claims for costs rent and damage to the property.
46. He advised that he would not have instructed the letting agent to send an abandonment notice. He was concerned that the tenant had a roof over her head. He said that there was a lot of stuff belonging to the tenant left in the property, he did not expect the tenant to be an expert in property law. He said that there was a lot of information that she was still around the property. He would have liked the opportunity to know the facts at the time before the notice was served.
47. He said it was a fully managed let, he did not think it had been fully managed.



48. The applicant was asked what his expectation was in terms of what the letting agent would do if there was a breach. He would have wanted to discuss the matter with the agent on the way forward. He would have wanted the agent to discuss matters with the tenant, what the tenancy conditions were and why they had to be adhered to and any remedial matters had to be addressed. He said that the letting agent had not kept him informed and had not approached the tenant about the breaches. He denied that he had ignored emails from the letting agent, he advised that at one stage, he had no access to his computer; he did not recognise the remarks about the gas installation, that it was 3 months before the bill was paid, he thought it had taken him a few days to pay it.
49. The letting agents advised that they manage 305 properties. In relation to this application on check-out, the blinds in the kitchen had been replaced. They were not sure what else was replaced or taken by the tenant after that date. The bankruptcy information was forwarded to the landlord. The agent advised the applicant that the agent did not deal with completing bankruptcy papers. The letting agent had asked the landlord for clarification about the missing items, but they did not clarify what items were missing. They were just told that there had been thefts. At the checkout stage, they got all the quotes in for the second tenancy, but it became complicated due to the involvement of the nephew. He advised that the nephew dealt with the tenant's removal from the property. They spoke to the nephew and agreed on a date and time for him to come and get the keys. Once the keys were gone that was the role of the agent finished. They called the tenant, and she was happy to deal with matters directly with the nephew. It was before the locks were changed that the nephew was under instruction from the applicant to look after the property. He advised that the agents knew the locksmith and they contacted him to change the locks, but it was after their involvement had ended. In terms of the abandonment notice he advised that the sofas had been removed, they served the notice and then the tenant got in touch to confirm that she had moved out.
50. He advised that the nephew had also used the letting agents, he was one of their landlords. It was the nephew who had recommended using them to the applicant. They advised that anything that the applicant had asked for in terms of letting procedures, something we had missed, they would look at and try to fix things to resolve it. They would often however not get a direct response from the applicant. Further, correspondence became difficult after the end of the second tenancy.



51. They confirmed that the applicant had asked for the check-out report for the first tenancy. They had overlooked this and not provided it to him.
52. They advised that they had emailed the checkout report for the second tenancy.
53. In terms of the deposits, he advised that they had claimed it, the tenant disputed the deposit claim, they made a submission on why the landlord should be able to claim the deposit, they submitted costs for cleaning, put in quotes for painting, etc. and had obtained the full deposit.
54. The agent advised that they would send over quotes to the landlord. They will prioritise works needed to get the property back on the market as soon as possible.
55. They agreed that there had been a failure to communicate, they accepted that the earlier check out report should have been sent over to the applicant. They advised that they had been managing the property since 2015. They did not recall any issues with their management until the end of the second tenancy.
56. They advised that the applicant had not asked for a copy of the tenancy agreement. They advised that they do not automatically send copies of the agreements out to landlords.
57. In terms of the inspection regime, they had 375 properties. When they were able to go back to inspect the properties after the covid restrictions had been lifted some of the tenants were not happy to allow us to go back in. It took a couple of months to get the inspections completed due to covid. They advised that they tell tenants that they need to paint the properties back to neutral colours at the end of the tenancy, however they can't stand over tenants to get them to repaint it. They advised that they have been letting agents for a long time. They tell tenants it is in the contract about the condition of the property.
58. They advised that communications could be missed, sometimes it would take several months for the applicant to respond. They advised that they sometimes asked the applicant's nephew to try and get in touch with the applicant for them.



59. They advised that they seek tenancy references, they use Let Alliance. They run credit checks and employment checks. They can also phone their employer or phone their friends to check statements.
60. When they rent a property out, they will speak to the landlord at the start and decide who will make the decisions about different matters. They advised in this case, there is no reference in the inventory to the alarm. They advised that sometimes items will not be listed in the inventory. They advised the alarm was a plug-in alarm. They had costed it, and it was worth £100.
61. They advised that photos were provided with the second tenancy check-out report. They were not sent out on an email. They had sent them on a USB stick on this occasion.
62. Abandonment notice, they advised that ~~there~~ they were usually in touch with the landlord before they serve the notice. They normally let the landlord know they have visited the property and it appeared abandoned. They will then send an abandonment notice out. The agents advised that they had gone to the property, to check about the rent arrears at first and when they arrived it did not appear to be still lived in. They found that there were no sofas in the lounge and the garden was a mess.
63. They advised they are both landlords and appreciate it is important that the landlord is kept up to date. The end of tenancy reports go to the landlord, and they are given information in terms of the estimated costs.
64. In relation to smoking. They advised that they had not been aware that the tenant smoked until the check out. They advised it is usually obvious, but in this case, it was only at check-out that they noticed the smoking and drug paraphernalia. They advised that it is a term in the tenancy that all the properties are non-smoking. There is an extra charge for cleaning added if there has been smoking. The electrical testing had confirmed that the tenant smoked and had damaged the smoke detector.
65. The agent advised that they saw that the smoke detector had been taken down. There were a number of matters to be sorted at the end of the tenancy. Resolution of them would be deducted



from the deposit and this would include replacing the smoke detector. On the check-out report there is a picture of the missing smoke decorator.

66. They advised that there had only been one inspection in the tenancy. The tenant had decorated the property, they had told her that she would have to redecorate in a neutral colour. They said that during an inspection they will bring matters to the attention of the tenant. They advised that they have no control over tenants as to what they do. If there are grounds for eviction, they could discuss this with the landlord. Tenants' repainting is a common occurrence.
67. They advise the landlord on the rent arrears process. They were asked about the rent arrears process. They advised they have a process to follow. Arrears management is the same for the landlord, they will advise the landlord what has happened. There is a dedicated accounts person, she deals with the arrears list every day. Arrears will flag on the system, and she knows who is late, and she will follow the arrears process.
68. In relation to the waiver of rent payment. They advised that they arranged this over a phone call, and an email from March 2020. The tenant had applied for a rent relief grant. There was another email from the tenant about what benefits she was getting and how much she could offer to pay. They advised that they don't keep any funds paid for the tenant.
69. They advised that they did not have photos for the first tenancy. They do have them for the second. The agents advised that the applicant had made no complaints about the first tenancy, until he made complaints about the second one. They advised that the applicant never went to look at the property. They did not think that the applicant had asked for the photos for the first tenancy at the time he moved out.
70. They advised that at the end of the tenancy, they will not usually send out a check out report. They send out a summary report; they will prepare the check-out report and photos and keep them. The procedure states they will provide a note of the findings, not the check-out report. A written summary is normally sent by email to the landlord.
71. The applicant said that the May 2021 inspection report shows the property in poor condition. Any remedials should have been in place then. The agents advised that the May 2021 report, was the



point when they noted the sofa was missing and they thought the property was abandoned. The applicant advised he did not know the property was in a state. He would have wanted to have known. The agents advised that there was no inspection in March 2021, the last one was in September 2020. The agent had gone out to the property due to rent arrears and to try and speak to the tenant.

72. In relation to the tenancy deposit, the applicant was concerned about the allocation of the deposit for cleaning of the carpets, there was a reference to the deposit being put against rent, and this had been contrary to his instructions.

73. In terms of resolution the applicant advised that he would like the check-out report and the photos for both tenancies, and the cost estimates for the remedial works. In relation to the second tenancy, he advised that he is missing the cost elements. He said that there was an obligation at the beginning and end of the tenancy to check what was there. He said that there was a lot of items missing.

FINDINGS IN FACT

74. The tribunal makes the following findings in fact: -

75. The letting agent is Premier Rentals Fife Ltd.

76. The applicant is James Connolly. He is a landlord.

77. Premier Rentals Fife Limited acted as the letting agent for the landlord, James Connolly from at least 21 July 2016 until sometime in June 2021.

78. The property which was leased out and managed by Premier Rentals Fife Ltd was 5 Rattray Terrace, Lochgelly, Fife.

79. The property was leased by the letting agents on a short, assured tenancy dated 21 July 2016, that tenancy ended on. The “first tenancy”

80. The property was leased by the letting agents on a private residential tenancy on 30 December 2019, that lease ended in June 2021. The “second tenancy”.

81. A check in and check out inventory for the first tenancy exists.

82. A check in and check out inventory for the second tenancy exists.



83. Between December 2019 there was correspondence between the letting agent and applicant about the condition of the property at check-out, retaining the full deposit to cover cleaning, removals and some paint work, and suggesting that a maintenance repaint was required.
84. On 18 December 2019 the applicant asked the letting agents for a copy of the check-out report and any estimates that the letting agent obtained. The check-out report and estimates were not provided at that time to the applicant.
85. The letting agents carried out a property inspection in September 2020. ~~They~~ They provided a copy of the inspection report to the applicant in September 2020.
86. The tenant of the second lease had periods when she did not pay her rent. There had been contact with the applicant and he had granted payment breaks.
87. In May 2021 the letting agents attended at the property to contact the tenant about rent arrears. They thought the property had been abandoned. They emailed the applicant on 18 May 2021 to advise they had served a notice to leave, and they would repossess the property on 21 June 2021 if they had not had a response from the tenant. The tenant responded to the letting agent to advise that she had left the tenancy.
88. The “second tenancy” tenant left the property in poor condition.
89. The applicant terminated his contract with the letting agent in around June 2021. He thereafter arranged for his nephew to deal with tenancy matters. The nephew allowed the tenant of the “second tenancy” tenancy back into the property to carry out redecoration and remove her own goods.
90. The letting agent emailed tenants and landlords to advise of the changes to practice in view of the covid restrictions, this included that the restrictions may delay their normal inspections. The normal inspections were to be carried out every 6 months. There was only one inspection to the second tenancy which was carried out in September 2020.
91. The tenancy deposit for the second tenancy was claimed by the letting agent for the landlord, the deposit was used in part to pay invoices and the letting agent management fee.

REASONS FOR DECISION

92. The applicant has brought this application under the letting agent code of practice. He cites a significant number of paragraphs of the code of practice which he considers have been breached.



On considering the papers and hearing from both parties on the application the tribunal has dealt with this application under the following headings: -

93. *First Tenancy*

94. The first issue here relates to the fact that the applicant appears to have been required to pay some of the costs for remedial works to the property at the end of the first tenancy. The tribunal notes that neither party confirmed what amount was paid by the applicant and for what works remedial or maintenance works.

95. We note that there was correspondence between the parties at the end of the first tenancy that there were some issues to be addressed in terms of some cleaning and paintwork due to the condition that the first tenant had left the property in. The letting agent confirmed that they would claim the deposit and use it for those works. They also suggested that it had been 4 years since the property had had a maintenance paint, they suggested that this work be done, they said that some of the painting could be covered by the deposit, but some of the rooms would need to be paid for by the applicant, (that email was sent on 13 December 2019). The last email submitted from both parties is dated 18 December 2019, it is an email from the applicant asking for a copy of the final inspection report and any estimates that the letting agents have for the works. This appears to be the end of the correspondence (or at least neither have submitted anything further to the tribunal). The applicant claims as part of this application that he never received this information. The letting agent agrees that it was not provided at that time, however they advise that they send out a summary report in accordance with their procedures. Further, the check-out report for the first tenancy has now been provided to the applicant.

96. The letting agent does appear to have provided their summary of the tenancy condition on 13 December 2019 but at the time of the request in December 2019 they did not send out the check-out report or the estimates. Neither party advised the tribunal what happened between 18 December and 30 December 2019 when the property was re-let. They did not advise if the landlord had to pay any additional monies to the letting agent for the maintenance works or the repair works, and if so, what was the further sum paid.

97. The applicant's complaint under this heading was that without the check-out report and photographs, he could not ascertain what costs should have been paid by the tenant (and also, we



would note what costs he should have paid for maintenance). On this issue we agree with the applicant, he should have been provided with the information he requested, he appears to have requested the check-in report and estimates. They do not appear to have been provided in 2019. We find that this is a failure on the part of the letting agent.

98. The applicant should also have been provided with the photographs of the property if he requested those, we see no evidence that he asked for photographs in 2019. It appears that the letting agent had not retained the photographs. While this would not preclude the landlord making an application against the tenant for payment of the remedial works, it would perhaps make it more difficult for him to prove his case without this evidence. We consider that the letting agent should have kept these photographs while the landlord was still entitled to bring such a claim, he has a period of five years to do so from the date of the breach (which would be the end of the tenancy). We consider that there was a failure by the letting agent in relation to this issue.

99. We would also note however, that these failures do not appear to have been pursued by the applicant until after the end of the second tenancy.

100. The applicant also claims that he had been asked to pay costs for damages to the property for the first tenancy and in his opinion these costs should have been paid by the tenant. He said that the letting agent should have sought money from the tenant first, before seeking money from the landlord. The tribunal notes there is no evidence before the tribunal as to what the cost breakdown for the works at the end of the first tenancy were, that said, we agree if the costs were for damages caused by the tenant, then the tenant should pay for them. The letting agents have a procedure for managing the end of a tenancy and it sets out under the section entitled “deposit return procedure” that “In order to avoid any delay in re-letting the property we will, if we hold sufficient funds for the landlord, arrange for remedial works to be carried out while deposit dispute is being resolved.” The letting agents advised they try to get repairs underway as soon as possible in order that the property can be re-let quickly. This makes business sense, and we would think it is usual practice. It would be unusual to suspend doing remedial works while the tenant was being pursued for these costs, this could be a lengthy process and while a payment order against a tenant may be granted that in itself will not be a guarantee that the order can be enforced. The fact that remedial works had been done and paid for by the landlord would not prevent the landlord later seeking recovery



of the costs from the tenant. Accordingly, we do not consider that there is any failure in the letting agents practice in terms of this aspect of the complaint.

101. If there is any further failure by the letting agent at that stage, it would appear to relate to a lack of discussion about the process with the landlord and advice of his rights to seek recovery of remedial costs. There is limited evidence about what happened at the end of 2019 in terms of advice about seeking recovery of remedial costs. We note that the letting agent could for a fee make a claim against the tenant, it is not clear if there was any discussion about this matter. We note that the letting agent stated that it was not until the end of the second tenancy that the applicant made any complaint against the letting agent.

102. *Second Tenancy*

103. The following issues are considered.

104. *Lack of information at the beginning of the tenancy.*

105. We do not find that there has been a breach on this issue. We note that the letting agents' terms and conditions only refer to passing all documents to the landlord where the contract they have is "let only". This would accord with what the letting agent said in evidence, that it is not their practice to give the tenancy agreement to the landlord, but they will if requested to do so, where they act under "full management". They also advised they were not requested to do so by the landlord.

106. *That the letting agent did not get a tenant reference for the second tenant*

107. We do not find that there is a failure under this heading. We note that the applicant submitted a copy of the tenant's reference. The letting agent advised that it was a standard company that they use to obtain tenant references. In addition, they will do further checks if they have the information to do so. We also note that the letting agent's terms and conditions under Indemnification state that every effort is made to provide a satisfactory tenant, but no responsibility or liability can be accepted by the agent for damage or loss to rent.

108. While it will be frustrating for any landlord to find that the tenant is not a good tenant, on the evidence provided it does appear that the letting agent has obtained a standard tenancy reference.



109. *Failure to carry out inspection; and to follow up on tenant breaches.*

110. We do not find that there was any failure to carry out inspections. The terms and conditions state that the letting agent will carry out inspections every 6 months (at additional cost). The tenancy commenced at the end of December 2019 and so the first inspection should have been carried out in June 2020. The first inspection was in fact September 2020. However, the reason for the delayed inspection was due to covid restrictions being in place, this fact and likely delays were advised to landlords by the letting agent on 19 March 2020. We noted that the letting agents had over 300 properties on their books, the covid lockdown would have impacted on inspections, the fact one had been carried out in September 2020, seems to us to be reasonable. Thereafter there appear to have been no further inspections however we are aware that there was further covid restrictions in place after the September 2020 inspection. Further, by May 2021 the letting agent had gone back out to the property but found it abandoned at that time.

111. If there is any criticism of the letting agent under this heading it would relate to not continuing to keep landlords advised of the updated position regarding their ability to carry out letting agency work under covid restrictions .

112. In terms of following up on tenancy breaches. We note that the inspection report highlights that the property appears to be in good condition except for the repainting of some walls. We note that the tenant was given advice that there was no permission for this, and she would have to redecorate at the end of the tenancy. We also note that the report was emailed to the landlord on 8 September 2020. There was no evidence given that he raised this issue with the letting agent and sought advice about the condition of the property in September. We do not consider that there was any failure on the part of the letting agent in terms of the painting of the walls. We agree that tenants often repaint walls, and we are prepared to accept that the advice given to the tenant would be common practice.

113. *Condition of the tenancy at the end of the second tenancy*

114. We do not find that there was any failure by the letting agent at this stage at the end of tenancy. It appeared that the tenancy condition had deteriorated, however we do not consider that the letting agent was responsible for that deterioration. We note that the letting agent was carrying out checks and had attended at the property regarding rent arrears in May 2021 and found it



abandoned. It appears to us that the letting agent had been acting appropriately in this visit. We find that their conduct was as an agent for the landlord and acting to ensure the landlord's interests were protected. While unfortunate, we do not find that there is any breach by the letting agent in relation to the condition of the property at the end of the second tenancy. We do not believe that there had been a failure to take action against the tenant after the September 2020 inspection. We do not think that the advice given to the tenant at the September 2020 inspection was "a green light" to the tenant to stop maintaining the property.

115. *Serving abandonment notice without seeking instruction.*

116. The email from the letting agent to the landlord of 18 May 2021 states that they visited the property, it appears to be abandoned and they had served a notice to leave. The letting agents' procedure for terminating a lease state under "abandoned properties" that if they have reasons to believe that a property is abandoned, we will seek instructions from the landlord on how they wish to proceed. There is no evidence that they sought instruction from the landlord. There was evidence from the letting agent that the landlord often did not respond to correspondence. This may have been the reason that they proceeded to serve the notice. We consider however that before serving the notice to leave they should have sought instructions from the landlord, even if they had difficulties in obtaining a response, they should at least in the first instance tried to contact the landlord to confirm instructions. We find that there was a failure under this issue.

117. *Lack of information to the landlord*

118. We note that both parties are in dispute over this issue. The letting agents are of the opinion that they had difficulties in contacting the landlord. The landlord advises that the letting agent failed to provide information to the landlord. We do find that there were failures under this issue, as in the first instance the check-out report for the first tenancy was not provided to the landlord; and instructions were not sought about serving the notice to leave on the second tenant. That said, we do note quite a lot of correspondence between the two parties, and it appears to us that the letting agents, on the whole, did appear to provide information to the landlord, other than as noted above.

119. *Missing items from the property*

120. We do not find a breach under this heading. We note that after the tenant had abandoned the second tenancy, the letting agent carried out a check out report. We note that the applicant then,



against letting agent's advice, allowed the tenant to go back into the property. It appears that she may have removed items at that time. Given that the tenant was allowed back into the property, the letting agent can only provide advice about the property when they carried out the check-out report. They have retained photographs and the check in and out reports. They advised that cream curtains alleged to be missing were never in the property; they gave advice about the type of light fitting, which was in the hall, they noted the blinds in the kitchen at the check-out were in place at that time. They did not agree that there had been a smoke detector worth £500 in the property. We consider that allowing the tenant back into property left it open to the tenant to remove items at that time. We do not find evidence of any breach by the letting agent on this matter.

121. *Failure to provide check-out inventory.*

122. We note from the correspondence submitted by the applicant that the letting agent provided the check-out report and photographs by October 2021. It appears that the applicant was not happy that the check-out report was the check-in report with handwritten notes updating the condition of the property. We do not find that such a process is unreasonable. We note that the check-out report is not usually provided to a landlord, but they will receive a summary report, and this is referred to in the termination procedures. We note that the applicant was provided with the second tenancy check-out report and photographs when it was requested.

123. *Bankruptcy*

124. We do not find that there is any breach under this heading. The letting agents state that they did not complete this paperwork. They advise that they advised the applicant of this fact. We note that the letting agents fee structure and terms and conditions set out what work the letting agent will do. We think it acceptable that the letting agents state they did not do this work this would appear to be in accordance with their terms and conditions.

125. *Rent arrears.*

126. The applicant complained that the letting agent may have retained some of the rent paid by the second tenant. Both parties gave evidence that there had been rent holidays given due to covid, and as the tenant had struggled with making payments. The letting agent provided evidence of correspondence about the rent holidays on 30 March 2020. There appears to have been a lack of information to the landlord about what rent holidays were taking place. We consider that it would be important where rent was not being paid, for all parties to be clear about the expectation for



payment. It is a change even if only for a temporary period to the tenancy agreement, and a lack of clear rules about how long the non-payment will go on for would be important, to avoid any confusion and misunderstanding. There appears to have been limited information provided to the landlord on this issue. While we find no evidence that the letting agent retained rent, and we make no finding on this matter, we do consider that there was a failure to keep the landlord fully informed about rent arrangements.

127. *Tenancy deposit*

128. The applicant was not happy about the allocation of the tenancy deposit when it had been claimed. The termination procedures, set out deposit return procedure. It states that they will seek deductions from the deposit. They explain their end of tenancy procedure, which includes what advice they will give the landlord regarding retaining some or all of the deposit. In the second tenancy, the landlord had terminated the contact with the letting agent, however there appeared to be a bit of time where the letting agent was not sure what they were to do. There were some invoices to be paid by them. We would refer to the letting agents terms and conditions and section entitled “indemnities”, it states that the landlord agrees to indemnify the letting agent against all costs, liabilities and expenses incurred. We note that the letting agents’ system will apply money received to rent in the first instance, however the letting agent advised that they would have been prepared to reallocate it to other deductions had they been requested to do so. We do not find that the letting agents conduct in putting the deposit to rent and deducting costs was a breach of their terms and conditions.

129. In terms of resolution the applicant advised that he would like the check-out report and the photos for both tenancies, and the cost estimates for the remedial works for both tenancies. We consider that the letting agent’s failure to provide those reports did cause the applicant inconvenience. We also consider that the letting agent should have provided better advice to the applicant about how remedials are treated and why, and in writing explained that the landlord could seek recovery of costs against the tenant by raising an action at the first-tier tribunal and explaining the process to the applicant. While such matters may be obvious to the letting agent, they are not necessarily obvious to a landlord. We consider that the letting agent should have provided more regular information about what was happening with inspections after the first covid restrictions had been lifted. It may have been reasonable that no further inspections took place after September 2020 until May 2021, however, it is not clear that the applicant knew what was



happening with inspections. The letting agent should have at least attempted to seek instructions from the applicant before proceeding to serve the notice of abandonment. Finally, in terms of the rent statement. The applicant did not understand them and was concerned about the allocation of rent. We found that the letting agent thought that the rent statements were complicated to understand. We note that there have been rent holidays and some rent was waived by the applicant. Rent will be an important consideration to landlords, and given there had been waivers of rent payments, we consider that there should have been clearer information set out in writing to all parties to avoid confusion and misunderstanding detailing when waivers/rent holidays would take place.

DECISION

130. The tribunal finds that the following provisions of the code were breached namely,
131. *SECTION 2 Overarching standards of practice :*
132. 18 :You must provide information in a clear and easily accessible way. This relates to the lack of communication relating to the change to the inspection regime; the potential for the applicant to seek to recover costs from both former tenants at the end of the tenancies; and the standard of information provided relating to rent payments/rent holidays.
133. 26: *failure to respond to enquiries, this relates the failure to provide the first tenancy check-out report and quotes.*
134. *SECTION 6 Ending the tenancy:* 98: You must have clear written procedures in place for managing the ending of the tenancy (including where the tenancy is brought to an end by the landlord, or by the tenant or joint tenant; the landlord intends to seek eviction and where a tenancy has been abandoned); the serving of appropriate legal notices; and giving the landlord and tenant all relevant information. 99. You must apply your policy and procedures consistently and reasonably. While the letting agent do have a procedure for ending the tenancy, they did not fully follow this procedure in relation to serving the abandonment notice.
135. *Client Accounts:* 119: you must have adequate records and accounts to show all dealings with client money. The tribunal found that the rent statement lacked clarity, and it was unclear



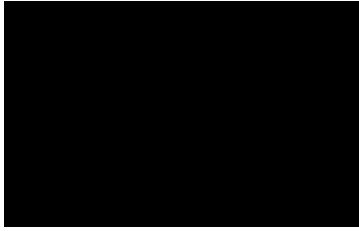
when payment holidays and waivers had been granted. If not shown on the rent account there should have been clear written records kept detailing payment holidays and waivers.

136. The tribunal proposes to make the following letting agent enforcement order: -
The Letting Agent must provide the applicant :
- a. Check-in and check-out report for the first tenancy ending in December 2019 together with any photographs that they hold for that tenancy.
 - b. Any quotes and estimates they hold for the remedial and maintenance works proposed for the first tenancy.
 - c. Check-in and check-out report for the second tenancy ending in June 2021 together with any photographs that they hold for that tenancy.
 - d. Any quotes and estimates they hold for the remedial and maintenance works proposed for the second tenancy.
 - e. A written explanation to the applicant explaining when the rent holidays and waivers took place and confirming the total amount of rent that was agreed to be waived by the applicant. An explanation of the rent account and how it shows rent paid, owed and where rent holidays and waivers are shown on the account, and if not an explanation as to why they are not shown.
 - f. Compensation of £200 for the inconvenience caused by the failure to provide requested reports and lack of information about the end of the tenancy process.

Right of Appeal

In terms of Section 46 of the Tribunal (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.

Housing and Property Chamber
First-tier Tribunal for Scotland



Melanie Barbour Legal Member

Date 8 November 2023