

# Housing and Property Chamber

## First-tier Tribunal for Scotland

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**First-tier Tribunal for Scotland (Housing and Property Chamber)**

**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 50 of the Housing (Scotland) Act 2014 (“the 2014 Act”)**

**Chamber Ref: FTS/HPC/LA/23/3585**

**The Property: 9/16 Calder Drive, Edinburgh, EH11 4LN (“The Property”)**

**The Parties:-**

**Dr Krzysztof Nowak, residing at 4 Beech Cir., Andover, Maryland, 01810, USA**

**(“the applicant”)**

**Zander Property Solutions Limited (trading as Accommodate Edinburgh), a company incorporated under the Companies Acts and having their registered office at 13-15 Morningside Drive, Edinburgh, Scotland, EH10 5LZ**

**(“The Respondent”)**

### **Tribunal Members**

Paul Doyle  
Eileen Shand

Legal Member  
Ordinary Member

### **DECISION**

The Tribunal determined that the Respondent has failed to comply with the Letting Agent Enforcement Order (“LAEO”) dated 29 February 2024 and that the Tribunal must notify the Scottish Ministers of that failure in terms of Section 50(2) of the 2014 Act.

The decision is unanimous.

### **Background**

1. The Applicant lodged an application in terms of Rule 95 of the Tribunal Procedure Rules 2017 and Section 48(1) of the 2014 Act. A Legal Member of the Tribunal with delegated powers of the President referred the application to the Tribunal. The

parties were notified that a case management discussion (“CMD”) would take place on 26 February 2024 at 10am by telephone conference call.

2. The CMD took place on 15 August 2023. The Applicants participated. The respondent was neither present nor represented. The applicant agreed that the documentary evidence contained all that he had to say in support of his application. He agreed that the tribunal should determine this application on the available documentary evidence.

3. Following the hearing, the Tribunal determined that the Respondent had failed to comply with the Code and issued a LAEO. In terms of the Order, the Tribunal required the Respondent to

(i) Pay the Applicant the sum of £150 as compensation for inconvenience and losses suffered as a result of the breaches,

(ii) Deliver their file of papers relating to the tenancy of the property to the applicant.

within 28 days of intimation of the LAEO.

4. The LAEO was issued to the parties on 1 March 2024. On 8 April 2024, the parties were asked to confirm whether the Respondent had complied with the LAEO. On 12 April 2024, the Applicant notified the Tribunal that they had not heard from the Respondent; they had not received the file of papers and had not received the sum specified in the Order. The Respondent did not respond or provide any information or evidence regarding compliance with the Order.

## **Reasons for Decision**

5. Section 50 of the 2014 Act states,

(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.

6. The Tribunal finds that:

(a) The LAEO was issued to the Applicants and the Respondent on 1 March 2024.

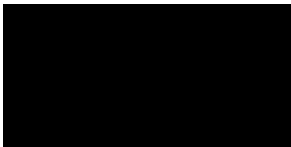
(b) The Respondent was required to comply with the order within 28 days of intimation.

- (c) On 8 April 2024, the parties were asked to confirm whether the Respondent had complied with the Order.
- (d) On 12 April 2024, the Applicant notified the Tribunal that they had not received the sum specified in the Order.
- (e) The Respondent did not provide the Tribunal with any information or evidence regarding compliance and has not contacted the Tribunal to offer any explanation or excuse for non-compliance.

7. The Tribunal is therefore satisfied that the Respondent has failed to comply with the LAEO and that the failure to comply 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.



23 April 2024.