

Housing and Property Chamber
First-tier Tribunal for Scotland



Decision and Certificate of Compliance with Letting Agent Enforcement Order in terms of Section 50(1) of the Housing (Scotland) Act 2014

Chamber Ref: FTS/HPC/LA/19/1726

Re: Property at 14 South Street, St Andrews, Fife (Room 14) (“the Property”)

Parties:

Ms Thalia Ostendorf, residing at 13 Straiton Way, St Andrews, Fife, KY16 8HT (“the Applicant”), represented by Mr Seamus Johnstone MacLeod, Living Rent, Edinburgh

Rollos, Solicitors and Estate Agents, 6 Bell Street St Andrews Fife (“the Respondent”) represented by Mr James Martin, Solicitor and Ms Susan Laing HMO Administrator, both of Rollos, Solicitors

Tribunal Members:

Ewan Miller (Legal Member) and Colin Campbell (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”), having determined that the Respondent has complied with the Letting Agent Enforcement Order (“LAEO”) dated 17 February 2020, determined this Certificate of Compliance should be issued in favour of the Respondent.

Reasons for Decision

- 1. The Tribunal issued a Decision to the parties on 17 February 2020 which determined that the Respondent had failed to comply with the Letting Agent Code of Practice (“the Code”) and in particular that the Respondent had failed to comply with Section 17 of the Code.**
- 2. The Tribunal had thereafter issued an LAEO also dated 17 February 2020 obliging the Respondent to pay the Applicant the sum of £200 by way of compensation. The Respondent paid the said sum of £200 shortly thereafter.**

3. Subsequent to the issue of the Tribunal's decision, the Applicant requested permission to appeal the decision of the Tribunal as she felt that the Tribunal had erred in their interpretation of Paragraph 82 of the Code. Upon reflection the Tribunal accepted that they may have so erred and granted permission to appeal to the Upper Tribunal.
4. In due course the Upper Tribunal issued its decision on 21 February 2021 confirming that the Tribunal had indeed erred in its interpretation of paragraph 82 of the Code. The Tribunal remitted the matter back to the original Tribunal as constituted for a further determination. Having taken into account the guidance from the Upper Tribunal, the Tribunal determined that there had been a failure on the part of the Respondent to comply with paragraph 82 of the Code and that they had failed to give appropriate notice prior to taking access to the Property. The Tribunal, having considered matters further, determined that it would be appropriate for a further £200 to be paid by the Respondent to the Applicant in respect of the breach of Paragraph 82 of the Code.
5. Shortly after the issue of the Tribunal's amended decision in relation to Paragraph 82 of the Code, both parties confirmed to the Tribunal that the further £200 had been paid by the Respondent to the Applicant.
6. The Tribunal accordingly determined that the original LAEO of 17 February 2020, as amended by the subsequent decision of May 2022, had been complied with. All sums required to be paid by the Respondent to the Applicant had been paid and the matter was at an end insofar as the Tribunal was concerned.
7. The decision of the Tribunal was unanimous.

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.


Legal Member/Chair

12/9/22
Date