

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Letting Agent Enforcement Order in terms of Section 48 (7) of the Housing (Scotland) Act 2014 (“the Act”)

Chamber Ref: FTS/HPC/LA/20/2064

The Parties:-

Graeme Taylor, 69 Ballumbie Gardens, Dundee, DD4 0NR (“the Applicant”)

BS Properties, Mr Brian Stewart, 23 South Tay Street, Dundee DD1 1NR (“the Letting Agent and Respondent”)

Tribunal Members:-

Petra Hennig McFatrige - Chairing and Legal Member
Jane Heppenstall - Ordinary Member (Housing)

This document should be read in conjunction with the decision of the First-tier Tribunal (“the tribunal”) under section 48(6) of the 2014 Act of the same date.

Whereas in terms of their decision, the First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Letting Agent has failed to comply with the Letting Agent Code of Practice (“the Code”) the Tribunal now requires the Letting Agent to take such steps as are necessary to rectify the failure(s) and makes the following **Letting Agent Enforcement Order (“LAEO”)**:-

Within 2 months of intimation of the LAEO the Letting Agent must:-

A: produce a document and send this to the Tribunal setting out the steps the Respondent is taking to reconcile all relevant bank records with the internal client ledger to ensure that all sums due to clients can be accounted for and accurate records produced going forward.

B: pay to the Applicant compensation of a total amount of £5,048.39 and produce proof of payment of said sum to the Tribunal

C: produce a document and send this to the Tribunal setting out the steps the Respondent is taking to identify training needs and to put in place appropriate supervision of staff to ensure compliance of staff with the Letting Agent Code of Practice.

D: issue a written letter of apology to the Applicant for the breaches of the parties' agreement, failure to meet the standards expected of Letting Agents operating in Scotland, and the breaches of various Sections of the Code and send a copy together with proof of service on the Applicant to the Tribunal at the same time.

E: produce a clear written procedure 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 as required in Number 92 of the Code and send a copy to the Tribunal

Please note that in terms of section 51(1) of the 2014 Act, a Letting Agent who, without reasonable excuse, fails to comply with an LAEO commits an offence liable on summary conviction to a fine not exceeding level 3 on the standard scale. Where the Tribunal decides that a Letting Agent has failed, without reasonable excuse, to comply with a LAEO the Tribunal must notify the Scottish Ministers under section 50 of the 2014 Act.

Appeals:

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

**Hennig McFatrige
Chairing and Legal Member
18 March 2021**