



Statement of Decision to Serve a Notice of Failure to Comply with a Letting Agent Enforcement Order on the Scottish Ministers Under S50(2) of the Housing (Scotland) Act 2014

Ms Lesley Kennedy, 47 Waverley Court, Kirkintilloch, East Dunbartonshire G66 2DB per her representative Mr Graham Stephen, 47 Waverley Court, aforesaid ("the applicant")

against

Purplebricks Group, trading as Purplebricks, Suite 7 Cranmore Place, Cranmore Drive, Solihull, B90 4RZ ("the respondents")

Re: 11 Allan Court, Gardenhall, East Kilbride G75 8BU

Chamber Ref: FTS/HPC/LA/21/2294

Tribunal Members:

David Preston (Legal Member); Ms Elizabeth Williams (Ordinary Member)

Decision

The Tribunal finds that the respondents have failed to comply with paragraph 5 of the Letting Agent Enforcement Order made by the Tribunal on 21 January 2022 and communicated to the parties on that date to the extent that the tenants deposit has not been transferred to the applicant.

The Decision of the Tribunal was unanimous.

1. On 21 January 2022 the First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the respondents had failed to comply with the Letting Agent Code of Practice (The Code") and issued a Letting Agent Enforcement Order (the Order) in respect of that failure.

2. The Order contained inter alia the following provision at item 5 to require the respondents, within 2 weeks of the communication of the Order to them to:

Make such arrangements as are necessary to transfer to the applicant the deposit arrangements for the tenants' deposit with Letting Protection Service Scotland under reference 16869126.

3. The Order was intimated by email to the parties on 25 January 2022.
4. On 4 February 2022 the respondents advised by email that they had carried out all of the items listed in the Order apart from the return of the keys (item 3). The tribunal intervened to allow the keys to be returned to the applicant by post.
5. In the response form dated 15 and 23 February 2022 the applicant advised that the deposit had not been transferred in accordance with item 5 of the Order. The respondents advised in their response form and in mail of 24 February 2022 that they had instructed the transfer and did not understand why it had not been effected.

Reason For the Decision

1. It is the responsibility of the respondents to ensure that they comply with the Order in full and within the time specified therein, which they have failed to do. A period of 4 weeks has now elapsed since intimation of the Order.
2. Accordingly, the Notice of Failure to Comply is necessary and it therefore in terms of Section 50(3) of the Housing (Scotland) Act 2014, makes a notification to the Scottish Ministers of that failure.

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.

Please note that in terms of Section 51(1) of the Housing (Scotland) Act 2014, 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.