

# **Housing and Property Chamber**

## **First-tier Tribunal for Scotland**

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### **Decision of the of the First-tier Tribunal for Scotland (Housing and Property Chamber)**

**In an Application made under Section 48 of the Housing (Scotland) Act 2014**

**Property: Flat 3, 5 Horne Terrace, Edinburgh and 1F2, 24 Brunton Terrace, Edinburgh, EH7 5EQ and 2, 94 South Bridge, Edinburgh, EH1 1HN ("the Property")**

**Chamber Reference: FTS/HPC/LA/20/0697**

#### **Parties:**

**Sam Ensaff, 20 Mountcastle Terrace, Edinburgh, EH8 7SQ ("the Applicant")**

**and**

**Albany Lettings, 168 Bruntsfield Place, Edinburgh, EH10 4ER ("the Respondent")**

#### **Tribunal Members:**

**Fiona Watson (Legal Member/Chairperson) and Frances Wood (Ordinary Member)**

#### **Decision**

**The Tribunal hereby determines that the Respondent has failed to comply with the Letting Agent Enforcement Order dated 1 September 2020.**

The decision is unanimous.

#### **Reasons for Decision**

1. The Tribunal issued a Letting Agent Enforcement Order ("LAEO") on 7 October 2020 in the following terms:

*“Within 4 weeks of the communication to the Respondents of this Letting Agent Enforcement Order, the Respondents shall:*

*Make payment to the Applicant in the sum of FOUR HUNDRED AND EIGHTY-SIX POUNDS AND FORTY PENCE (£486.40) STERLING.”*

2. The LAEO was issued to the Respondents by email dated 12 October 2020.
3. Section 50 of the Housing (Scotland) Act 2014 provides:
  - (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.*
4. By email dated 11 November 2020 the Tribunal administration wrote to both parties seeking their views on whether or not the required actions under the LAEO had been carried out. The parties were required to confirm their views to the Tribunal by 25 November 2020. No response was received from either party.
5. The Tribunal considered that the period for compliance with the LAEO expired on 9 November 2020 and no confirmation had been provided to the Tribunal by either party that any steps had been taken by the Respondent to comply with the terms of the LAEO.
6. The Tribunal accordingly finds that the Respondent has not complied with the LAEO and the failure 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

Legal Member/Chairperson

16 December 2020