

# **Housing and Property Chamber**

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

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### **Statement of Decision To Serve A Notice Of Failure To Comply With A Letting Agent Enforcement Order On The Scottish Ministers Under Section 50(2) Of The Housing (Scotland) Act 2014**

**Chamber Ref: FTS/HPC/LA/18/3267**

#### **The Parties:-**

**Mr Dominic Harbourne, 12 Lanhill View, Chippenham, Wiltshire SN14 6XS**

**("the Applicant")**

**Donna Hanlon trading as Hanlon Clark, 10 Main Street, Strathaven ML10 6AJ**  
**("the Letting Agent")**

**Letting Agent Registration Number: N/A**

#### **Tribunal Members:**

**Rory Cowan (Legal Member and Chair)**  
**James Battye (Ordinary Member)**

On 16 May 2019, 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") and issued a Letting Agent Enforcement Order (The Order) to the Letting Agent in respect of that failure.

The Order contained the following provisions and required the Letting Agent, within 21 days of the date of service of the Order, to:

1. Lodge with the Tribunal a copy of the Letting Agent's written procedures for the following:
  - a) Collecting and handling rent on the behalf of landlords;
  - b) The handling of complaints;
  - c) The handling of client money; and
  - d) Debt recovery.
2. Lodge with the Tribunal a style terms of business for the Letting Agent's Letting Agency Work which compiles with the all current legislative requirements including those set out in the Letting Agent Code of Practice.

3. Write to the Applicant setting out to him all the required information as detailed in paragraph 37(a) of the Letting Agent Code of Practice. A copy of the letter so sent should be lodged with the Tribunal administration.
4. Deliver to the Applicant all property of his they hold (and provide written confirmation of the date and manner of delivery to Tribunal administration) including principal documents relative to the Applicant's property at 40 Logan Street, Glasgow G72 0NS, as follows:
  - a) Any Tenancy Agreement relative to that property;
  - b) Any gas safety certificates for that property
  - c) Any Electrical Installation Condition Reports (including Portable Appliance Tests) for that property.
  - d) Legionella Risk Assessments relative to that Property
5. Pay to the Applicant the amount of £2,952.50, as compensation for the loss suffered by the Applicant as a result of the failure to comply with the Code.

### **Representations from the Parties**

The Applicant by representations dated 4 July 2019 has confirmed that the Letting Agent has not provided any of the documents nor made payment of the sums due in terms of the Order. The Letting Agent has lodged no representations.

### **Reasons for the Decision**

On the basis of the evidence before it, the Tribunal is satisfied that the Letting Agent has failed to comply with the terms of the Order. It therefore, in terms of section 50(3) of the Housing (Scotland) Act 2014, makes a notification to the Scottish Ministers of that failure.

**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 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.**

Rory Cowan

Legal Member and Chair

\_\_\_\_ 7<sup>th</sup> August 2019 \_\_\_\_ Date