

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Letting Agent Enforcement Order (LAEO): Section 48(7) of the Housing (Scotland) Act 2014 ("The Act")

Chamber Ref: FTS/HPC/LA/19/2350

**5D Northburn Avenue, Airdrie, ML6 6PY
("the First House")
1/2, 170 Duror Street, Glasgow, G32 1NA
("the Second House")
2/1, 6 Ratho Drive, Glasgow, G32 1NA
("the Third House")
1/2, 14 Memel Street, Glasgow, G21 1LL
("the Fourth House")
(collectively "the Houses")**

The Parties:-

**Fiona Mairi Taylor, 57F Drumbathie Mansions, Drumbathie Road, Airdrie, ML6 6EW
("the Applicant")**

**CPM Glasgow Ltd, 180 Drumoyne Road, Glasgow, G51 4DX
("the Letting Agent")**

Letting Agent Registration Number: Pending

Tribunal Members:

Joel Conn (Legal Member and Chair)

Leslie Forrest (Ordinary Member)

Whereas in terms of their decision dated 6 November 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 in particular that the Letting Agent has failed to comply with the following aspects of the Code :-

Paragraph Failure

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| 108 | Failure to respond to enquiries and complaints within reasonable timescales. |
| 119 | Failure to keep adequate records and accounts to show all dealings with the Applicant's money. |

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| 120 | Failure to account immediately to the Applicant for all money held on her behalf. |
| 123 | Failure to regularly record and monitor all transactions and reconcile these monthly as a minimum. |
| 124 | Failure to ensure the Applicant's money was available to her on request and was given to her without unnecessary delay or penalties, unless agreed otherwise in writing. |
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and otherwise continued consideration of whether the Letting Agent failed to comply with paragraphs 73, 74, 75, 112, 118, and 125 of the Code.

The Tribunal now requires the Letting Agent to take such steps as are necessary to rectify the failures listed above.

The Tribunal requires the Letting Agent to:-

in respect of the failure to comply with paragraph 108:

- a) Provide to the Applicant full inspection records in regard to all inspections of and maintenance to the First House from December 2017 until October 2019 and;
 - a. In the event that no inspections took place, provide to the Applicant an explanation as to why no inspections were undertaken; and
 - b. In the event that inspections and/or maintenance took place, provide to the Applicant copies of correspondence or file notes of telephone conversations between the Letting Agent and Applicant regarding the outcome of any inspections or maintenance in the above and, in the event that no such correspondence or telephone updates were given, an explanation as to why the Applicant was not updated as to the outcome of the inspections and/or maintenance;
- b) Provide to the Applicant an accounting in regard to any sums of deposit received in regard to the First House in respect of the tenant who vacated in 2017 if held by the Letting Agent and, if such a deposit was never held, confirmation that same has never been held by the Letting Agent;
- c) Provide to the Applicant an explanation for the failure to provide the Applicant with access or keys to the First House between July and October 2019;
- d) Confirm to the Applicant whether a rental payment was received in respect of the First House for the week commencing 5 July 2019 until the date of the former tenant vacating and, if not, any steps taken by the Letting Agent to pursue the unpaid rent, the outcome of same, and the Letting Agent's recommendations if the rent remains unpaid;

- e) Confirm to the Applicant whether a rental payment was received in respect of the Second House for each of the months commencing 18 June, 18 July, 18 August, 18 September, and 18 October 2019 and, if not in respect of any of those months, any steps taken by the Letting Agent to pursue the unpaid rent, the outcome of same, and the Letting Agent's recommendations if rent remains unpaid;
- f) Confirm to the Applicant whether a rental payment was received in respect of the Third House for each of the months commencing 1 August, 1 September, 1 October and 1 November 2019 and, if not in respect of any of those months, any steps taken by the Letting Agent to pursue the unpaid rent, the outcome of same, and the Letting Agent's recommendations if rent remains unpaid;
- g) Confirm to the Applicant whether a rental payment was received in respect of the Fourth House for each of the months commencing 1 October and 1 November 2019 and, if not in respect of any of those months, any steps taken by the Letting Agent to pursue the unpaid rent, the outcome of same, and the Letting Agent's recommendations if rent remains unpaid;

in respect of the failure to comply with paragraph 119:

- h) Provide the Applicant with a full accounting of all rental income received from the First House for the period 5 June 2019 to date and any deductions made by the Letting Agent from such income;
- i) Provide the Applicant with a full accounting of all rental income received from the Second House for the period 18 February 2019 to date and any deductions made by the Letting Agent from such income;
- j) Provide the Applicant with a full accounting of all rental income received from the Third House for the period 1 October 2018 to date and any deductions made by the Letting Agent from such income;
- k) Provide the Applicant with a full accounting of all rental income received from the Fourth House for the period 1 December 2018 to date and any deductions made by the Letting Agent from such income; and

in respect of the failure to comply with paragraphs 120, 123 and 124:

- l) Pay to the Applicant any credit balance due to her in respect of rental income from the Houses, with a full accounting of (i) how such credit balance is calculated, and (ii) any sums the Letting Agent seeks to retain in respect of fees or outlays;

and otherwise continues consideration of whether any compensation is due to the Applicant as a result of failure to comply with the Code.

The Tribunal order that the steps specified in this Order must be carried out and completed within the period of 28 days from the date of service of this Order.

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.

Legal Member and Chair

6 November 2019 Date