

Housing and Property Chamber First-tier Tribunal for Scotland



Letting Agent Enforcement Order (LAEO):

Section 48(7) of the Housing (Scotland) Act 2014 (“The Act”)

Chamber Ref: FTS/HPC/LA/18/1720

The Parties:-

Lucinda Willis, Flat 18, Caird House, 4 Scrymgeour Place, Dundee DD3 6TU (“the Applicant”)

Rent Flats Dundee Limited, (company number SC578355) having a place of business at 214 Blackness Road, Dundee, DD1 5PL (“the Respondents”)

Letting Agent Registration Number: not yet allocated

Tribunal Members:-

David Bartos - Legal member and Chairperson
Helen Barclay - Ordinary member

Whereas in terms of their decision dated 8 November 2018 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 Respondents have failed to comply with the following aspects of the Code :-

Sections 124, 125, 17, 18, 43, 45, and 112

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

The Tribunal requires the Respondents to:-

- (a) Pay to the Applicant the amount of £ 150 being the unpaid part of the Applicant’s deposit held by the Respondents;
- (b) Lodge with the Tribunal a style of Private Residential Tenancy Agreement which :
 - (i) in the clause dealing with deposit omits the provisions in clause 11 of the Scottish Government Model Private Residential Tenancy Agreement where its fourth paragraph provides, “By law, the deposit . . . refundable)”, and where its sixth and seventh paragraphs provide

"Where it is provided . . . due by the tenant" and replaces these provisions with provisions permitting deductions which do not go beyond the purposes of deposit permitted by section 90(3) of the Rent (Scotland) Act 1984; and

- (ii) omits the provision set out in clause 37(ix) of the the lease involving the Applicant dated 19 March and 3 April both 2018;
- (c) Lodge with the Tribunal a style of Application Form for prospective tenants which informs the Applicant that the Respondents are bound by the Letting Agent Code of Practice and that a copy may be made available on request;
- (d) Lodge with the Tribunal a complaints procedure that is compliant with section 113 of the Letting Agent Code of Practice;
- (e) Pay to the Applicant the amount of £ 75 as compensation for the loss suffered by the applicant as a result of the failure to comply with sections 17 and 18 of the Code.

The Tribunal orders that the payments specified in this Order be made within the period of 14 days from the date of service of this Order.

The Tribunal orders that the non-monetary steps specified in this Order must be carried out and completed within the period of four weeks 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.

Mr David Bartos

Legal Member and Chair

8 November 2018 _____

Date