

Housing and Property Chamber
First-tier Tribunal for Scotland



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: 13 Greenbank Drive, Glenburn Paisley ("the Property")

Chamber Reference: FTS/HPC/LA/20/0517

Parties:

Mrs Christine Gilbert, 47 Langton Crescent, Barrhead, G78 2HD ("the Applicant")

and

R&J Properties, 65 Causeyside Street, Paisley, PA1 1YT ("the Respondents")

Tribunal Members:

Fiona Watson (Legal Member/Chairperson) and Linda Reid (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 1 September 2020 in the following terms:

"Within 2 weeks of the communication to the Respondents of this Letting Agent Enforcement Order, the Respondents shall:

- (1) *Produce a copy of their written procedure for handling client money;*
 - (2) *Produce a full reconciliation of all funds received and all funds paid out in respect of the tenancy of the property at 13 Greenbank Drive, Glenburn, Paisley from the commencement of the tenancy agreement in November 2014 to the termination of the tenancy agreement in May 2018. Said reconciliation must include: copies of all invoices for works carried out during the tenancy agreement; all rental payments received whether paid by the tenant directly, paid by a 3rd party on the tenant's behalf or benefits payments made on the tenant's behalf; and all fees, commissions and other charges taken by the Letting Agent.*
 - (3) *Pay to the applicant the sum of £500 by way of compensation for the inconvenience and effort occasioned by them in pursuing the letting agent to carry out their duties."*
2. The LAEO was issued to the Respondents by email dated 8 September 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 3 November 2020 the Applicant confirmed to the Tribunal that no money had been paid to the Applicant by the Respondent, nor any communication taken place with the Applicant by the Respondent.
5. The Tribunal considered that the period for compliance with the LAEO expired on 22 September 2020 and no steps had been taken by the Respondent to comply with the terms of the LAEO. No communication had been made by the Respondent to either the Applicant or the Tribunal, since the LAEO was intimated to parties.
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