

Housing and Property Chamber
First-tier Tribunal for Scotland



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 50 of the Housing (Scotland)
Act 2014**

Chamber Ref: FTS/HPC/LA/19/2074

Re: Flat 3/1, 5 Barrland Street, Glasgow, G41 1QH ("the Property")

Parties:

Maria Cervnakova, Flat 3/1, 5 Barrland Street, Glasgow, G41 1QH ("the Applicant")

GPS Legal & Estate, 467 Victoria Road, Glasgow, G42 8RL ("the Respondent")

Tribunal Members:

Nairn Young (Legal Member) and Mary Lyden (Ordinary Member)

On 24 September 2019, the First-tier Tribunal for Scotland Housing and Property Chamber ("the Tribunal") issued a Letting Agent Enforcement Order ("the Order") to the Respondent in respect of a failure to comply with the Letting Agent Code of Practice. The Order contained the following provisions:

"The Tribunal requires the Respondent to take the following steps to rectify said failure:

1. To confirm, in writing, to the Applicant the procedure that she should follow to communicate with her landlord in relation to any repairs that are required, including details as to:
 - whom she should contact to report any repair that is required;
 - who will take responsibility for responding to such communication;
 - how quickly an acknowledgement of such communication will be received by her; and

- who will take responsibility for ensuring any repairs required are carried out timeously;

and to lodge a copy of such written confirmation with the Tribunal;

2. To send a written apology to the Applicant for its failure to respond to her letters dated 3, 25 and 28 June 2019;
3. To pay to the Applicant the sum of £150 in compensation for the loss suffered as a result of said failure;

such steps to be carried out and completed no later than two weeks following the service of this Order.”

The time allowed for compliance with the Order has expired and, on a form dated 8 November 2019, the Applicant’s representative confirmed on her behalf that none of the actions required had been carried out by the Respondent. This form was copied to the Respondent. The Respondent has not replied to contradict the Applicant’s position. The Respondent has not lodged any document with the Tribunal in terms of the Order.

REASONS FOR THE DECISION

On the basis of the above, the Tribunal finds that the Respondent has not complied with the Order in any respect. No reasonable excuse for failure to comply has been given. Accordingly, the Tribunal has determined that, in terms of Section 50(2) of the Housing (Scotland) Act 2014, it is obliged to serve notice of the Respondent’s failure on the Scottish Ministers. The Tribunal also considers that a reference to the Procurator Fiscal is appropriate, given the apparent disregard to the terms of the Order that the Respondent has demonstrated.

RIGHT OF APPEAL

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. Please note that in terms of Section 51(1) of the Act, a Letting Agent who, without reasonable excuse, fails to comply with a Letting

Agent Enforcement Order commits an offence liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Nairn Young

Legal Member/Chair

Date