

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 49 of the Housing (Scotland) Act 2014 (Act) and the Rules of Procedure 2017 (contained in Schedule 1 of the Chamber Procedure Regulations 2017 (SSI No.328)) (Rules)

Chamber Ref: FTS/HPC/LA/19/1445

Parties:

Miss Lynn Robertson (“the Applicant”)

Homefinders Inverclyde (“the Respondent”)

Tribunal Members:

Alan Strain (Legal Member) and Linda Reid (Housing Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (the Tribunal) determined that the Respondent has complied with the Letting Agent Enforcement Order (LAEO) made on 20 August 2019.

Background

On 20 August 2019 the Tribunal made a LAEO requiring the Respondent within 21 days to lodge with the Tribunal and copy to the Applicant:

- (a) Written Procedures and processes confirming appropriate systems and controls are in place to ensure repairs and maintenance obligations are done to an appropriate standard within relevant timescales;
- (b) Written Procedures and processes for tenants to notify any repairs and maintenance and target timescales; and
- (c) Clear information about who will manage repairs and maintenance.

On 10 September 2019 the Respondent lodged by email the Written Procedures and information required under the LAEO. The information was copied to the Applicant.

Both the Applicant and Respondent have submitted that there has been compliance with the LAEO.

Reasons

The Tribunal considered that there had been compliance with the LAEO although caveats this with the comments that the Procedures and information produced were not to the standards expected. The Respondent should take appropriate legal and/or other professional advice to ensure full compliance with Letting Agent Code of Practice and Good Practice Templates, particularly ensuring:

1. Explicit, consistent information between the Respondent's various policy and tenant, client and agent documents.
2. Greater clarity on routine repair and emergency repairs response and completion timescales
3. Explicit Landlord responsibilities; ensuring that Landlord obligations are prominent and are not inadvertently, or otherwise, included within the Tenant responsibilities.

Whilst the Tribunal make these observations for future reference it accepts that there has been compliance with the LAEO made on 20 August 2019.

Although non-binding, the Tribunal hopes that the Respondent will consider its observations and act upon them.

The Decision of the Tribunal was unanimous.

Right of Appeal

In terms of Section 46 of the Tribunal (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.

7 November 2019

Legal Member/Chair

Date