

# Housing and Property Chamber First-tier Tribunal for Scotland



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

**STATEMENT OF DECISION  
TO NOTIFY THE SCOTTISH MINISTERS OF A FAILURE TO COMPLY WITH A  
LETTING AGENT ENFORCEMENT ORDER  
in terms of Section 50(2) of the Housing (Scotland) Act 2014 (“the Act”)**

**Chamber Ref: FTS/HPC/LA/18/1039**

**7 Earnsheugh Crescent, Cove Bay, Aberdeen AB12 3RU (“the Property”)**

**The Parties:- Mrs. Morag Duncan residing at Flat 2/1, 281 Old Rutherglen Road, Gorbals, Glasgow G5 0UU (“the Landlord”)**

**AM-PM Leasing being the trading name of SD (Aberdeen) Ltd., a company registered under the Companies Acts with company number 341513 and having a place of business at 441, Union Street, Aberdeen AB11 6DA (“the Letting Agent”)**

## **Tribunal Members**

**Karen Moore (Legal Member and Chairperson)**

**David Fotheringham (Ordinary Member)**

**This Statement of Decision should be read in conjunction with Statement of Decision and Letting Agent Enforcement Order reference FTS/HPC/LA/18/1039 dated 15 August 2018**

## **Decision and Reasons for Decision.**

1. On 15 August 2018, the First-tier Tribunal for Scotland (Housing and Property Chamber)(“the tribunal”), made the following Letting Agent Enforcement Order (“the Order”) :-

*“No later than Friday 14 September 2018*

*The Letting Agent at its own cost must provide to the Landlord and to the tribunal: -*

- i) A full inventory in writing and by photographic record of the furnishings and other household items which are let by the Landlord in terms of the new tenancy and a copy of the new tenancy agreement;*
- ii) A Report from Scottish Fire and Rescue Service that the said furnishings meet current fire safety standard regulations and*

iii) *A Report from a suitably qualified and registered SELECT or NICEIC electrical contractor that all portable electrical appliances in the Property meet current safety standard regulations, and*

*The Letting Agent must compensate the Landlord in the amount of £3,000.00 and provide evidence of this to the tribunal.”*

2. Following the expiry of the time limit for compliance with the Order, the tribunal in terms of Section 50(1) of the Act, enquired with the parties in respect of compliance and was advised by email by the Landlord that the Letting Agent had not complied with the Order and the Letting Agent had intimated to the Landlord that, as a result of the Order, the Letting Agent had decided to terminate its contract with the Landlord.
3. The Letting Agent made no contact with the tribunal and did not provide the tribunal with a reasonable excuse for failing to comply with the Order.
4. The tribunal was satisfied, therefore, that the Letting Agent had received notification of the Order and had not complied with it.
5. The tribunal then had regard to Section 50(2) of the Act which states: *“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.”* and also to Section 50(3) of the Act which states: *“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.”*
6. Having determined that the Letting Agent had failed to comply with the Order and having no information before it of a reasonable excuse for the Letting Agent failing to comply, the tribunal, therefore, is bound to notify the Scottish Ministers.

## **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

Karen Moore

Chairperson 16 November 2018