

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 48(1) of the Housing (Scotland) Act 2014

Chamber Ref: FTS/HPC/LA/23/2902

Parties:

Jan King, 9 Moneymore Place, Wakefield, 7095, New Zealand (“the Applicant”)

Caroline Walker Property Leasing Ltd, The Basement, No 3, 1 – 3 Albyn Terrace, Aberdeen, AB 10 1YP (“the Respondent”)

Tribunal Members:

Josephine Bonnar (Legal Member)

Mike Scott (Ordinary Member)

DECISION

The Tribunal determined that the Respondent has failed to comply with paragraphs 17, 19, 55, 68, 74, 75 and 93. The Respondent has not failed to comply with paragraphs 16, 24, 30, 54, 73, 90 and 94. Complaints under paragraphs 57, 61, 98 and 111 were withdrawn.

The decision is unanimous.

Background

- 1. The Applicant lodged an application in terms of Rule 95 of the Tribunal Procedure Rules 2017 and Section 48(1) of the 2014 Act. The application states that the Respondent has failed to comply with Overarching Standards of Practice (“OSP”) 16, 17, 19, 24, and paragraphs 30, 54, 55, 57, 61, 68, 73, 74, 75, 90, 93, 94, 98 and 111 of the Letting Agent Code of Practice. A letter to the letting agent notifying them of the complaint was lodged with the application.**
- 2. A Legal Member of the Tribunal with delegated powers of the President referred the application to the Tribunal. The parties were notified that a case management discussion (“CMD”) would take place on 11 November 2023.**
- 3. Following the CMD, the Tribunal determined that the application would proceed to a hearing by video conference and issued a direction to the**

parties. The parties were notified that this would take place on 30 January 2024 at 10am. The hearing took place on that date. The Applicant participated. The Respondent was represented by Ms Walker. Prior to the hearing both parties lodged documents in response to the direction.

The Hearing

4. Ms King told the Tribunal that she previously lived in the property and decided to sell it because she was going to live in New Zealand. When she didn't manage to sell, she decided to let it out. The Respondent was instructed to manage the property in August 2020. All communications were by email, with one exception, due to the time difference and cost of phone calls. She completed a client questionnaire/preference sheet at the outset and specified that the property was not to be rented out to students. This instruction was in the questionnaire, although not in the agency agreement. Ms King said that the first time she saw the property again was when she returned to Scotland for a visit in August 2023. She thought some maintenance might be required. The tenants were reluctant to allow her to visit and it was postponed a few times. Eventually they agreed and she met Tom (the property manager) at the flat. The flat was disgusting. Things were broken and it was filthy. It was obvious that the tenants were students. There was a pool table in the living room and a mattress against the wall. It was very cluttered and looked as though there were several people living there although it is a one-bedroom flat. She was furious her daughter did some online research and established that one of the tenants had recently graduated. She concluded that at least one of the tenants had been a student at the start of the tenancy.
5. Ms Walker told the Tribunal that the Applicant did give an instruction that the property was not to be let to students. However, she telephoned Ms King when the tenants applied for the property. There had been negotiations about the rent. She didn't know that it was the middle of the night when she made the call. During the call she told the Applicant that one was a student but that both had provided guarantors, although technically this was not required for the non-student. She made the call because often landlords change their mind about preferences, and it was Ms King's decision. There was no reason for the Respondent to withhold that information. The tenants were a couple.
6. Ms King said that the telephone call was received at 2 or 3am and woke her. The discussion related to the rent negotiations. There was no mention of students or guarantors. It was a brief conversation. It was followed immediately by an email.
7. In relation to the condition of the property, Ms Walker said that inspections were carried out but that she cannot dictate how people should live. There was a lot of clutter and stickers and posters on the walls. They admitted that they had broken the light at the breakfast bar. However, there were no black bags of rubbish or anything like that. They were asked about the mattress and said that a friend has stayed for a few nights. They are allowed to have people to stay. The issues at the property were minor and that is what the deposit is

for. When the check out inventory was done, the cleaning cost was only £116. Often it can be several hundred pounds. At the end of the tenancy the girls disputed the claim on the deposit except for 3 days rent and carpet cleaning. Ms King decided to let the Tribunal deal with the dispute rather than go through adjudication, so the deposit was repaid to the tenants.

8. Ms King told the Tribunal that she has recently applied to the Tribunal for a payment order for £1300, being the re-instatement costs based on the inventory. The tenants had initially admitted breakages – the light and a mirror – then later denied liability for them.
9. In response to a question about inspections during the pandemic, Ms Walker said that she had continued to work, and some inspections were carried out. An inspection was scheduled for September 2023. There had been an inspection by Tom in July 2023. She also visited the property around that time because there was an issue with the drains. The place was messy, but the only damage was due to posters on the walls. It was otherwise in average condition. It had been their home for over 3 years, so some allowance has to be made for that.
10. Ms King said that the last inspection she got any feedback on took place in February 2023, although they are supposed to take place every 3 months. Tom didn't tell her he had inspected recently when they went to the property in August 2023. When asked, he said that the last inspection had been a month before, but not by him. Ms Walker said that she has another agent who fills in but that she has seen an email from Tom to the tenants when he said that it had been nice to see them again, so she was certain that he had attended. He did forget to give feedback to the Applicant on that inspection.

Section 2, paragraph 16 - You must conduct your business in a way that complies with all relevant legislation.

11. The complaint under this section is that the Respondent failed to comply with section 1(13) of the Code of Practice which relates to taking instructions from a landlord. Letting the property to students was contrary to the Applicant's instructions. Ms Walker stated that she should have sent an email after the phone call to confirm the position about the student and guarantors but that she had nothing to gain from withholding this information. The Applicant was desperate to get tenants into the property and during COVID this was not easy. The girls' references checked out but there is no guarantee with any tenants.

Section 2(17) - You must be honest, open, transparent and fair in your dealings with landlords and tenants (including prospective and former landlords and tenants)

12. The complaint under this section is that the Respondent did not disclose the fact that one of the prospective tenants was a student or that her reference was from her student accommodation. Ms Walker said that her mistake was

not putting this information in writing after the phone call.

Section 2(19) - You must not provide information that is deliberately or negligently misleading or false.

13. The complaint is that the Applicant was grossly misled when she was told in an email that the tenants were ladies, both working and with excellent references. In response to questions Ms King said that she cannot say if the Respondent deliberately misled her but that it was certainly negligent. Ms Walker said that there was no malice or deliberate intent to mislead. Her only error was when she failed to put the information in writing. Her honesty has never been questioned during the 33 years she has been a letting agent.

Section 2(24) – You must maintain appropriate records of your dealings with landlords, tenants and prospective tenants. This is particularly important if you need to demonstrate how you have met the Code’s requirements.

14. The complaint is that the Respondent failed to provide evidence that the Applicant had been told about the student and had agreed to it. Ms King referred to Ms Walker’s response to her formal complaint when she stated that she had spoken to Lesley (who was on maternity leave) who had recalled that the Applicant did not want students. There had been a couple who were both working. They withdrew their application. The girls then applied, and the Applicant was happy to take them as both had guarantors. This was not true.
15. Ms King said that the Respondent did not keep proper records. The tenants had breached their tenancy agreement by swapping their parking space with another resident who had installed a punch bag in it, affixed to the wall. They also broke a light fitting and a mirror. She was not told about these breaches on the tenancy, only getting brief emails which stated that the flat was clean and tidy. It was all from the tenant’s perspective. Ms Walker said that the records were adequate. The light fitting was picked up, but that could be covered by the deposit. She told the Tribunal that all information including phone calls and emails are recorded on the system. When the property is inspected, the property manager walks round taking notes. The main purpose to check for major damages like burn marks on carpets. The broken light was picked up and the mirror light had always been an issue. The inspections only take 10 or 15 minutes.

Section 3(30) – You must agree with the landlord what services you will provide and any other specific terms of engagement. This should include the minimum service standards they can expect and the target times for taking action in response to requests from them and their tenants.

16. The complaint is the failure to follow the instruction regarding students and to carry out inspections every month. In relation to the latter, Ms King said that the inspections were not three monthly. Even if there was an inspection in July 2023, this was 5 months after the February inspection. And she was not

given any feedback on the July 2023 inspection. Ms Walker told the Tribunal that the delay might have been because the tenants refused access. They were sometimes uncooperative. However, there was an inspection in July 2023 because there is an email exchange between the tenants and Tom which mentioned it. However, he forgot to provide a report on it.

Section 4(54) – you must agree with the landlord the criteria and process for managing and approving tenancy applications from prospective tenants.

17. Ms King told the Tribunal that she has partially withdrawn this complaint and is only insisting on it in relation to the Respondent letting the property to students.

Section 4(55) - You must inform the landlord in writing of all applications made on the property as soon as possible unless agreed otherwise with the landlord, along with all relevant information about the offer and the applicant.

18. Again, this relates to the alleged failure by the Respondent to notify the Applicant that the prospective tenants were students or provide information about their references.

Sections 4(57) and (61) – withdrawn

Section 4(68) – If you are responsible for managing the check in process, you must produce an inventory (which may include a photographic record) of all the things in the property (for example furniture and equipment) and the condition of these and the property (for example marks on walls, carpets other fixtures) unless otherwise agreed in writing with the landlord. Where an inventory and schedule is produced, you and the tenant must both sign the inventory confirming it is correct.

19. Ms King told the Tribunal that the inventory was not signed by the tenants. Ms Walker said that the tenants acknowledged the inventory and sent photographs/comments about it. She tries to get tenants to sign the inventories but if they fail to do so the emails confirm the position. She stated that she was at the check in. She asked them to sign it, but they didn't do so. In those days they didn't use signable, so it had to be signed with a pen.

Section 5(73) - If you have said in your agreed terms of business with the landlord that you will fully or partly manage the property on their behalf you must provide these services in line with relevant legal obligations, the relevant tenancy agreement and sections of the Code.

20. In the application form, the basis of this complaint is an alleged failure to carry out regular inspections or carry out maintenance work. However, at the hearing, the Applicant said that the Respondent breached this section by failing to tell her about the breaches of the tenancy agreement – the posters on walls, the punchbag, the breakages and the fact that they had tampered with a window mechanism. Ms Walker said that the parking space was

probably not inspected every time and there was no evidence that the punchbag did not belong to the tenants. In the end she paid for the parking space to be re-instated. The Property Factor had not raised any concerns and it only came to light at the end of the tenancy.

21. Ms King told the Tribunal that work was required at the property. The Respondent's handyman could not get access to do the work and Ms Walker didn't follow this up to get the work done. This was also not reported to her until she asked about it. Ms Walker said that the work involved was the painting of part of a wall. It was cosmetic. The painter couldn't get in but didn't tell her. She arranged to pay for the painting when it was eventually done.

Section 5(74) – If you carry out routine visits/inspections, you must record any issues identified and bring these to the tenants and landlords attention where appropriate..

22. The complaint under this section is that the Respondent did not provide a report on the last inspection and that the Applicant is of the view that it may not have taken place. Ms Walker confirmed that a report was not sent. This was an oversight on the part of the property manager but he did inspect.

Section 5(75) – breaches of the tenancy agreement must be dealt with promptly and appropriately and in line with the tenancy agreement and your agreement with the landlord.

23. Ms King referred to sections 12, 17 and 20 of the tenancy agreement and stated that she was not notified of the breaches and that the Respondent failed to address them. Ms Walker said that the communal parts of the property are outwith her remit, such as the open plan garage. Windows are not examined during an inspection, so this was not picked up.

Section 5(90) – repairs must be dealt with promptly and appropriately having regard to their nature and urgency and in line with your written procedures.

24. The complaint is that repairs were not carried out in a timely manner and sometimes not at all. Ms King confirmed that this relates to the painting work after a new heater had been installed.

Section 5(93) – if there is any delay in carrying out the repair and maintenance work you must inform the landlords, tenants or both as appropriate about this along with the reason for it as soon as possible. 5(94) – you must pursue a contractor or supplier to remedy the defects in any inadequate work or service provided.

25. The complaints under these sections relate to the painting work.

Section 6 (98) – You must have clear written procedures in place for managing the end of the tenancy (including where the tenancy is brought to an end by the landlord or by the tenant or joint tenant; the landlord intends to seek

eviction and where a tenancy has been abandoned); the serving of appropriate legal notices ; and giving the landlord and tenant all relevant information.

26. Ms King said that this complaint had been partially withdrawn but that the Respondent did not return all of the keys which had been provided at the start of the tenancy. This was disputed by the Respondent. Following discussion, Ms King said that she would withdraw this complaint as the issue of the keys did not relate to procedures.

Section 7(111) – withdrawn

27. Ms King said that her losses in terms of the tenancy and the final inventory were £1300 but that overall, the actual costs were £7000. She conceded that these were not all directly attributable to the breach of the code as they include items such as loss of rental income which was due to the tenancy being terminated and the decision to sell rather than re-let the property. That said, she told the Tribunal that she had decided to sell the property because it was the only eviction ground available to her. She also told the Tribunal that she had decided not to use the deposit scheme adjudication process because it would take too long, and the damages were more than the deposit anyway so an application to the Tribunal would still be required. Ms Walker said that the Applicant could have used the deposit scheme process and chose not to do so.

Findings in Fact

28. When the Applicant instructed the Respondent to manage her property, she gave a written instruction that the property was not to be let to students.
29. The Respondent let the property to a student without consulting the Applicant. This was contrary to the Applicant's written instructions.
30. The tenants breached the terms of the tenancy agreement by installing a punch bag in the parking space, putting posters and stickers on walls, breaking a light fitting and mirror and failing to replace these and failing to provide access on all occasions that this was requested.
31. The Respondent did not notify the Applicant of any breaches of tenancy by the tenants.
32. The inspections of the property were sometimes less frequent than every three months although the parties' agreement stated that this would be the frequency.

Reasons for Decision

33. Section 48(4) of the Housing (Scotland) Act 2014 states that, “No application may be made (to the Tribunal) unless the applicant has notified the letting agent of the breach of the code of practice in question”. Section 48(3) requires an Applicant to set out in their application, the Applicant’s reasons for considering that the letting agent has failed to comply with the Code. The Tribunal is satisfied that the application clearly sets out the complaints and that the Respondent was properly notified of the complaints in a detailed letter dated 25 April 2023.
34. Many of the complaints relate to the fact that one of the tenants was a student at the start of the tenancy. The Applicant states that she gave a specific instruction that the property was not to be let to students in her client preference form. The Respondent accepts that this was the case. The parties also agree that all communication between them was by email, except for one phone call made on 21 or 22 August 2020, at 2 or 3am New Zealand time. The Respondent’s evidence is that she told the Applicant during the call that one of the tenants was a student but that both had provided guarantors. The Applicant denies that this information was given.
35. The Tribunal found the Applicant to be generally credible and reliable. Her evidence was consistent with the documents lodged. Although the Tribunal is not persuaded that Ms Walker gave evidence that she knew to be inaccurate, her evidence was less convincing. Although she has been a letting agent for over thirty years and presumably has managed hundreds of properties, she insisted that she could recall the specifics of a brief call made to one landlord in 2020. These details are completely absent from the extensive email correspondence between the parties. Ms Walker told the Tribunal that sometimes landlords change their minds. However, given the very specific instruction given only a few days before the call, this seems an unlikely scenario. Both parties were clearly keen to get tenants into the property and this could have been the motivation for withholding the information. However, based on the email correspondence it appears that Ms Walker might not have been aware of (or had forgotten about) the stipulation about students. Statements made in emails and submissions are somewhat contradictory. The Tribunal notes the following:-
- (a) It was difficult to establish the chronology of the emails between the parties, possibly because of the time difference and the fact that the Respondent often sent back emails which had been received with responses added in red. However, in emails dated 16 and 17 August 2023, in response to a complaint that the property had been let to students against Ms King’s wishes, Ms Walker stated that she couldn’t find anything in the files about that and added she could not access Lesley’s emails as she was on maternity leave. In what seems to be later email, she stated that she had called Lesley who confirmed that Ms King had stipulated no students. These comments are at odds with her claim that she was aware of the stipulation from the outset and therefore contacted the Applicant by telephone to tell her on 21 or 22 August 2020. There is also an email dated 9 August 2023, when she stated that the tenants who were placed in the flat were both working at the time they were placed there.

(b) In her written response to the application lodged prior to the CMD, Ms Walker said that the Respondent only became aware that one of the prospective tenants was a student when they received the completed application forms. However, this is not consistent with the email correspondence. There is an email dated 20 August 2020 to Ms King. Ms Walker stated that there was a viewing with one of the ladies and they had made an offer. It says that they are a couple and both working. On 22 August 2020 there is a further email to Ms King. In this email Ms Walker apologises for the call in the middle of the night and says that the girls have increased their offer to £575. She asks Ms King to confirm if she is agreeable and they will issue the application forms. Ms King responds stating, "let's go with the girls". In response, Ms Walker sends an email stating that the application forms have been sent to the girls. If the Respondent did not know that one of the tenants was a student until the application forms were completed and returned, Ms Walker could not have discussed this issue with Ms King during the phone call which took place before the decision was made to accept the offer and issue the forms.

36. The Tribunal is therefore satisfied that the Applicant stipulated that the property was not to be let to students and that the Respondent did not follow this instruction or tell the Applicant that one of the tenants was a student either before or after they became the tenants of the property.

37. It is clear from the evidence and email correspondence that the parties had different expectations in relation to the inspections which were to be carried out every three months. The Applicant expected more than most landlords would consider necessary. This may have been due to her lack of previous experience or the fact that the flat had been her home. However, Ms Walker ought to be aware that not all landlords have the same expectations. She should have taken time at the start of the contract to establish what was expected. A commercial landlord with lots of properties might be unconcerned about posters on walls and minor breakages and be happy to sort things out at the end of the tenancy. Ms King clearly expected full details of all issues, although there is no evidence that she ever asked for more information than the brief reports which stated that the property was clean and tidy.

38. Unless they had been specifically asked to include the parking space in the routine inspections, the Tribunal is satisfied that this would not ordinarily be included. The purpose of an inspection is to check the interior of the property and any garden ground. The Tribunal is therefore not persuaded that the Respondent knew about the punch bag, so could not have reported it. There is also no evidence that they were (or ought to have been) aware of the damage to the mirror. The only breakage which clearly came to light during inspection was the light fitting and the Applicant ought to have been notified. It was not appropriate for the Respondent to decide that the deposit would cover it. As it turns out, the re-instatement costs may exceed the value of the deposit, although that is yet to be determined. The Applicant's decision not to use the Scheme adjudication process is illogical. She could have recovered the whole deposit and then made an application to the Tribunal for any additional losses. The Tribunal is satisfied that the Applicant should have been told about the light fitting and the fact that there were posters and

stickers on walls. The Respondent should also have told the Applicant that the tenants were sometimes uncooperative about allowing access. Neither party provided documentary evidence in relation to the cleanliness of the property. The Applicant did not see it until August 2023 and although she was dissatisfied about its condition at that visit, the only evidence about the property prior to this came from the Respondent. Ms Walker that there was some clutter but that it was clean enough. The Tribunal is therefore not satisfied that the tenants breached the tenancy agreement by failing to keep the property clean.

Section 2(16) of the Code.

39. It is not clear why the Applicant has specified this section of the Code and not section 1(13) since the complaint is that the Respondent has not complied with 1(13). The Applicant does not allege that the Respondent has failed to comply with any other relevant legislation. However, both the notification letter and the application form make it clear that the complaint relates to 1(13). This section states, "The Code has been structured to follow the letting process – from taking instructions from a landlord, letting, and managing the property to the ending of a tenancy (including any arrangements that follow)." The whole of section 1 is about the Code, who it applies to and the consequences for failure to comply. It does not appear to impose specific obligations on letting agents – it just provides information. The Tribunal is not persuaded that the Respondent has failed to comply with Section 1(13) or 2(16) of the Code.

Section 2(17)

40. The Tribunal is satisfied that the Respondent failed to comply with this Section. The Applicant was not notified that one of the prospective tenants was a student, although she had given specific instructions that the property was not to be let to students. The Respondent was not open and honest when it failed to provide this information.

Section 2(19)

41. As previously indicated, the Tribunal is not persuaded that Ms Walker deliberately misled the Applicant about the status of the tenants. However, given the very precise instructions, the failure to tell her that one was a student and the statement in the emails that that both tenants were working, establishes that the Respondent "negligently" provided misleading and false information. A breach of this section is established.

Section 2(24)

42. The Tribunal is not persuaded that a breach of this section is established in relation to the student tenant. The Respondent's records included a copy of the tenant's application, which indicated that she was a student. The records also included the preference sheet which indicated that students were not

permitted. It would appear that Ms Walker failed to check the records or decided to disregard the information in the preference sheet. However, that does not mean that the relevant information was not held.

43. The second part of this complaint is that the Respondent did not report the tenants' breaches of the tenancy agreement. However, this section of the Code relates to record keeping and not communication or the thoroughness of inspections. The fact that the Respondent failed to tell the Applicant about posters on the walls, a damaged light fitting or clutter in the property does not mean that they did not have a record of it, only that they did not communicate the information to the Applicant. The Applicant has not established a breach of this section.

Section 3(30).

44. The complaints under this section are the failure to follow the instruction regarding students or carry out inspections every three months. Although the Tribunal is satisfied that the Respondent did not follow the instruction regarding students and that the inspections appear to have taken place less frequently than was agreed, this section requires a letting agent "agree" with the landlord what services are to be provided and the specific terms of engagement. Failure to comply with the agreement is a different issue. A breach of this section is not established.

Section 4(54)

45. This complaint was partially withdrawn, and the only remaining issue is the letting of the property to a student. Again, the Tribunal is not persuaded that this complaint is established as the section requires a letting agent to agree with the landlord "the criteria and process for managing and approving tenancy applications". The parties did agree that the property was not to be let to students. Failure to adhere to the agreement is a different issue.

Section 4(55)

46. The Tribunal is satisfied that a breach of this section has been established. The Respondent did not provide the Applicant with "all relevant information about the offer and the applicant" when they did not disclose that one of them was a student. The Respondent ought to have done this even without the stipulation from the Applicant at the start of the tenancy.

Section 4(68).

47. The evidence from Ms Walker on this issue was far from clear. She said that she had been at the property for the check in, even though COVID restrictions were in place. Despite this, the inventory was not signed by the tenants. She

said that they sent some photographs by email as comments on the inventory but did not sign it and send it back, although they were asked to do so. Why it was not signed at the check in is not clear. A breach of this section is established.

Section 5(73)

48. Various issues were raised in relation to this section. Failure to carry out regular inspections, maintenance, and report breaches of tenancy. However, the Tribunal is not persuaded that these establish a breach of this section. If the inspections were not carried out as agreed, this was a breach of the agency contract rather than the tenancy, relevant legislation, or the Code. The Respondents failure to communicate with the Applicant about maintenance and breach of tenancy would also establish a failure to fulfil their contractual obligations to the landlord. The tenancy agreement is a contract between the landlord and tenant. The letting agent is not responsible for a breach of tenancy by the tenant. In terms of maintenance and repair, there is an obligation in the tenancy agreement on the landlord to ensure the property meets the repairing standard and carry out required repairs promptly. In a fully managed property, this may be delegated to the letting agent. However, it is unlikely that a tenant could establish a breach of tenancy where they failed to allow access, particularly if the outstanding issue was cosmetic and did not affect their use and enjoyment of the property.

Section 5(74)

49. The Tribunal is satisfied that a breach of this section is established. The Respondent did not provide a report in relation to the July 2023 inspection and also failed to notify the Applicant about the posters on the walls and broken light fitting.

Section 5 (75)

50. The Tribunal is satisfied that the Respondent failed to deal with the breaches of tenancy. At the very least, Ms Walker ought to have notified the Applicant of the breakage that she was aware of and the posters and stickers on the wall. Some landlords would not expect to be notified of these as they are relatively minor matters. But the Respondent ought not to have assumed that the Applicant only expected to be told about more serious breaches, such as non-payment of rent. Since the losses may exceed the value of the deposit, the Respondent's reliance on this to sort matters out at the end of the tenancy was clearly misplaced. A breach of this section has been established.

Section 5 (90).

51. The only specific complaint under this section relates to some painting required after the repair or replacement of a heater. It is not disputed that this was delayed. Given the very minor nature of the work, the Tribunal is not persuaded that a breach of this section is established. The section specifically

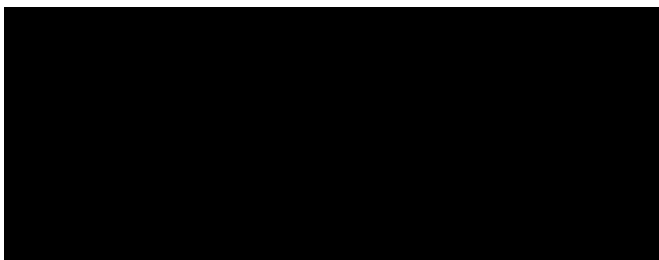
indicates that the letting agent must have regard to the “nature and urgency” of the work.

Section 5(93) and (94)

52. The Tribunal is satisfied that a breach of paragraph 93 is established. The complaint again relates to the painting of the wall. The Respondent conceded that the work was delayed, possibly due to lack of access. She did not notify the Applicant of the delay. However, the Tribunal is not persuaded in relation paragraph 94. This clause is designed to ensure that faulty or defective work is addressed. In this case, the painter was unable to get access to the property. When Ms Walker was contacted by the Applicant, she got in touch with the painter who then arranged to carry out the work.

Appeals

An Applicant or Respondent 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.



Josephine Bonnar, Legal Member

12 February 2024.