

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Letting Agent Enforcement Order (LAEO): Section 48(7) of the Housing (Scotland) Act 2014 (“the Act”)

Chamber Ref: FTS/HPC/LA/18/3416

The Parties:-

Mr Roger Cooke, 28 Mountsandel Road, Coleraine, County Londonderry BT52 1JE (“Applicant”)

Factotum (Scotland) Ltd, t/a Factotum, incorporated in Scotland under the Companies Acts (Registered No. 246244), 63 Dublin Street, Edinburgh EH3 6NS (“the Letting Agent”)

Tribunal Members:

Mark Thorley – Legal Member

Ann MacDonald – Ordinary Member

Whereas in terms of their decision dated 1 April 2019 the First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Letting Agent has failed to comply with the Letting Agent Code of Practice (“the Code”) and in particular that the Letting Agent has failed to comply with the following aspects of the Code:-

The Tribunal found that the respondent had breached paragraphs 18, 19, 21, 25, 26, 28, 33, 38, 78, 102, 108, 111, 112, 124, 125 and 127.

The Tribunal now requires the Letting Agent to take such steps as are necessary to rectify the failures listed above.

The Tribunal requires the Letting Agent to:-

1. The Respondent should prepare for the Applicant a detailed accounting of all income and expenditure for each of the three properties from the period from the commencement of the agency agreement until conclusion.
2. The commission sought to be charged by the Respondent for 12 Broughton Street in the invoice dated 12 October 2018 should be cancelled.
3. The Respondent should repay to the Applicant all commissions paid on the three properties from 11 May 2018 until the conclusion of the contract.

4. That the Respondents should repay to the Applicant the cost of the replacement of the soiled mattresses which figures are to be established by the Respondent to the Applicant.
5. The said order and payments must be carried out and completed within a period of 28 days from the date of service of this order.

The Tribunal order that the steps specified in this Order must be carried out and completed within the period of 28 days from the date of service of this Order.

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

M Thorley

Legal Member and Chair

1 Apr 2019

Date