

S/N 22/2021 – Misrepresenting to Tenant, Posting Inaccurate or Misleading Advertisement, Failing to Verify Floor Area and Failing to Present Marketing Proposal

Facts of Case

Sometime in March 2019, the Respondent was engaged by the owners (the “**Landlords**”) of a private condominium apartment (the “**Unit**”) to help them rent out only a specific area within the Unit (the “**Area**”). The Area consists of the balcony, toilet and utility room areas, and was separated by a wall partition from the rest of the Unit. A tenant would have no access to the rest of the Unit, which the Landlords were living in.

At all material times, only the Area was available for rent. However, the Respondent failed to disclose this during her marketing in March 2019. The Respondent posted a listing on an online property portal to look for tenants (the “**Advertisement**”). Crucially, instead of specifying that only the Area was to be rented out, the Advertisement stated that there was an “*apartment for rent*”, “*fully furnished*” and with a floor area of 300 square feet. The Respondent had no knowledge of and did not take steps to verify the floor area of the Area prior to posting the Advertisement.

Prior to the Advertisement being listed, there were no marketing proposals presented by the Respondent to the Landlords for their feedback and agreement pursuant to paragraph 3.1.2 of the Professional Service Manual (“**PSM**”).

Sometime in late March 2019, a prospective tenant (the “**Tenant**”) contacted the Respondent after viewing the Advertisement, specifically requesting to rent either a studio apartment or a 1-bedroom apartment. The Respondent offered the Unit for viewing to the Tenant, stating that it was a “*studio*” and did not clarify that only the Area was to be rented out. The Respondent further confirmed to the Tenant that the property for lease was a “*complete self-contained studio with no one else*”.

The Tenant was a Malaysian seeking to procure accommodation before relocating to Singapore and was unable to personally view the Unit. The Tenant thus trusted and relied on the Respondent’s representations and descriptions of the Unit. The Tenant confirmed that he would be renting the Unit, unaware that he would only be renting the Area in actuality. At all material times, the Tenant relied on the Respondent’s representations and believed that he was renting a studio apartment that was fully furnished and 300 square feet in floor area.

Despite knowing that only the Area was available for rent, the Respondent nevertheless proceeded to prepare a Letter of Intent (“**LOI**”) in a way that seemed as if the entire Unit was available for rent and would be rented by the Tenant; there was no clarification in the LOI that only the Area would be leased. Accordingly, the Tenant signed the LOI and transferred the security deposit of \$1,200 to the Landlords.

Thereafter, the Respondent further facilitated the signing of a tenancy agreement for a lease of the entire Unit to the Tenant for a period of 1 year, from 7 April 2019 to 6 April 2020, at a monthly rental of \$1,200 (“**TA**”). The TA included a clause that allowed the Tenant to lease the entire Unit; at no point in time did the Respondent inform the Tenant that only the Area was available for rent.

Subsequently, through a series of WhatsApp queries, the Tenant realized that the property would not come “*fully furnished*” as represented by the Respondent in the Advertisement. The Tenant requested for the lease duration to be reduced to 6 months, which was rejected by the Landlords.

On 5 April 2019, the Tenant questioned the Respondent as to whether the floor area was 300 square feet, as represented in the Advertisement. The Respondent then admitted that the 300 square feet was only based on her own estimation, as nobody had done any measurements or had any knowledge of the exact floor area. The Respondent’s own estimation also included the lobby, which was a common area accessible by anyone who had access to the lift lobby. The Respondent was not instructed by the Landlords to represent the floor area as such.

The Tenant finally realized that the Respondent was not entirely truthful in the Advertisement and her representations to him over WhatsApp, and decided not to follow through with the tenancy. The Tenant requested a refund of the security deposit and threatened to file a lawsuit and a police report against the Respondent. In response, the Respondent filed a police report against the Tenant for purported acts of harassment and threats.

Around end April 2019, after checking with her estate agent, the Respondent amended the Advertisement to state a floor area of 180 square feet (the “**Amended Advertisement**”). However, the Amended Advertisement still represented the Area as an “*apartment for rent*” and being “*fully furnished*”.

Sometime in early June 2019, the Tenant filed a complaint with CEA against the Respondent. There were attempts between the Respondent’s estate agent and the Tenant to resolve the matter amicably, but these were unsuccessful and the Tenant did not manage to recover his security deposit.

The Respondent did not receive any commission as the transaction did not go through.

Charges

The Respondent faced the following 4 charges:

Charge 1 (Proceeded)

Failing to act ethically and in a reasonable manner towards the Tenant by misrepresenting to the Tenant inaccurate facts in relation to the Area within the Unit that was to be rented out, in that the Area was a studio apartment with no other occupant when this was not the case, in contravention of paragraph 6(3) read with paragraph 6(4)(c) of the Code of Ethics and Professional Client Care (the “**Code**”).

Charge 2 (Proceeded)

Causing to be made the Advertisement that contained representations that were inaccurate or misleading, by advertising the Unit as an “*apartment for rent*”, “*fully furnished*” and with the floor area to be rented out as “*300 sqft*”, when in fact it was only the Area that was available for rent and the Area was not an “*apartment for rent*”, “*fully furnished*” or “*300 sqft*” as described in the Advertisement, in contravention of paragraph 12(4)(a) of the Code.

Charge 3 (Proceeded)

Failing to conduct her business and work with due diligence and care, by not knowing and not verifying the actual floor area of the Area within the Unit that was to be rented out before representing the Area as 300 square feet in floor area in the Advertisement, in contravention of paragraph 5(1) of the Code.

Charge 4

Failing to perform her work in accordance with applicable laws where she was not fully conversant and in compliance with the PSM, by failing to present a marketing proposal to the Landlords before commencing to market the Area for lease pursuant to paragraph 3.1.2 of the PSM, in contravention of paragraph 4(1) read with paragraph 4(2)(a) of the Code.

Outcome

Pursuant to a plea bargain, the Respondent pleaded guilty to Charges 1 to 3, with Charge 4 taken into consideration for the purposes of sentencing.

In sentencing, the Disciplinary Committee (the “DC”) noted that the Tenant was a foreigner who had relied on the Respondent to inform him of the state of the Area, necessitating the importance for the Respondent to accurately inform the Tenant of the same. Blaming the Tenant’s failure to view the Area before committing to the tenancy or arguing that the Respondent had made the various inaccurate representations simply on the Landlords’ instructions and the Respondent’s personal circumstances were not of any mitigating value.

Accordingly, the DC imposed the following financial penalties and disciplinary orders on the Respondent:

Charge 1: A financial penalty of \$1,000 and a suspension of 2 months.

Charge 2: A financial penalty of \$1,000 and a suspension of 1 month.

Charge 3: A financial penalty of \$2,000 and a suspension of 2 months.

The suspension periods were ordered to run concurrently. The total sentence imposed was a financial penalty of \$4,000 and a suspension of 2 months.

Fixed costs of \$2,000 was also imposed on the Respondent.