

## **S/N 10/2023 – Withholding Information from Client, Failing to Act According to Client's Instructions and Failing to Ensure that Advertisement Accurately Described the Property**

### **Facts of Case**

Sometime in February 2019, the Respondent was engaged by the Landlord to advertise and facilitate the rental of a private property (the “**Property**”).

Sometime in March 2019, RES Y contacted the Respondent and informed her that she had a potential Tenant interested in renting the Property. RES Y also informed the Respondent that the Tenant wanted to keep a pet dog in the Property and asked the Respondent to check if the Landlord permitted this.

In mid-March 2019, after some negotiations, the Landlord agreed to rent the Property to the Tenant at a total sum of \$17,600 per month for 2 years (comprising \$16,500 for the rental of the Property and \$1,100 for leased furniture). During the course of negotiations, RES Y had, on 4 separate occasions, informed the Respondent of the Tenant's wish to keep a pet dog in the Property. However, the Respondent failed to directly confirm with the Landlord whether a pet dog would be allowed in the Property.

Around end-March 2019, the Respondent sent the Landlord a draft tenancy agreement. The Landlord specifically instructed the Respondent to include a clause in the tenancy agreement that the Tenant was not permitted to keep any pets or animals in the Property throughout the tenancy (the “**No Pets Clause**”), but the Respondent failed to do so. As a result, the tenancy agreement was signed by parties in early April 2019 without the No Pets Clause. At no time before the Landlord signed the tenancy agreement did the Respondent inform the Landlord that the Tenant wished to keep a pet dog on the Property despite the Landlord's clear instructions that she did not permit a pet to be kept on the Property. The Tenant then shifted into the Property with a pet dog after the Property was officially handed over to him without knowing that the Landlord did not permit any pets.

Sometime in mid-June 2019, while the Respondent and RES Y were conversing in relation to the Property, the Respondent told RES Y that she did not intend to inform the Landlord of the Tenant's request and intention to keep a pet dog within the Property. In response to RES Y's inquiry as to whether the Landlord knew about the dog, the Respondent told RES Y “*dun care dun tell [the Landlord]*”.

The following day, after the above conversation took place, the Landlord paid a visit to the Property and discovered that the Tenant was keeping a pet dog. The Landlord informed the Tenant that he was not permitted to keep any pets within the Property and both parties eventually agreed to terminate the tenancy agreement. The Property was handed back to the Landlord sometime in August 2019 and the Landlord only managed to lease out the Property again in November 2019, but at a lower rent of \$15,500 per month (compared to the previous base rent of \$ 16,500).

As a result of the premature termination of the tenancy agreement, the Landlord suffered a loss of rental in respect of the Property for the period between August 2019 and November 2019. The Tenant also suffered the inconvenience of having to urgently locate other suitable premises to rent and incurred relocation and moving fees of about \$2,000 to move to the new premises.

Sometime in late September 2019, the Landlord was informed by another salesperson (whom she had previously worked with) that photographs of the Property had been used in another advertisement on

an online property listing portal. The photographs featured the private living quarters of the Property with the Landlord's furniture, and were used to advertise another unit located within the same development of the Property. The advertisement was posted by the Respondent, who had mistakenly used the photographs in the advertisement without the Landlord's permission. The Respondent took down the photographs upon realising her mistake.

## **Charges**

The Respondent faced the following 3 charges:

### **Charge 1**

Failing to render professional and conscientious service and act with honesty, fidelity and integrity towards the Landlord, by failing to act according to the instructions of the Landlord and promote and protect the Landlord's interests, by omitting to include a specific clause in the tenancy agreement for the Property to prohibit the keeping of pets, notwithstanding the Landlord's clear instruction to include such a clause in the tenancy agreement, in contravention of paragraph 6(1) read with paragraph 6(2)(a) of the Code of Ethics and Professional Client Care (the "**Code**").

### **Charge 2 (Proceeded)**

Failing to render professional and conscientious service and act with honesty, fidelity and integrity towards the Landlord, by withholding relevant information from the Landlord, by omitting to inform the Landlord that the Tenant wished to keep his pet dog in the Property as a condition for signing the tenancy agreement, notwithstanding the Landlord's clear instructions that she did not want any pets to be kept in the Property, in contravention of paragraph 6(1) read with paragraph 6(2)(d) of the Code.

### **Charge 3**

Failing to ensure that all materials used to advertise a property accurately described the property, by using photos of the interior of the Property to advertise another property within the same development for rent in an advertisement on an online property listing portal, in contravention of paragraph 12(4)(b) of the Code.

## **Outcome**

Pursuant to a plea bargain, the Respondent pleaded guilty to Charge 2, with Charges 1 and 3 taken into consideration for sentencing.

In sentencing, the Disciplinary Committee ("**DC**") noted that:

- (a) The Respondent's level of culpability was high as she had deliberately withheld information from the Landlord that the Tenant wanted to keep a pet dog in the Property;

**Note:** This case was referred to a CEA Disciplinary Committee (DC) after the operationalisation of the Estate Agents (Amendment) Act 2020 on 30 July 2021. With the Act amendments, the maximum financial penalty for disciplinary breaches has been raised and a DC can impose a higher financial penalty on errant offenders.

- (b) There was substantial monetary loss caused to the Landlord from the early termination of the tenancy due to the loss of rental income from August 2019 to November 2019 and a lower monthly rental from the replacement tenant;
- (c) The Tenant incurred financial losses of \$2,000 from the relocation and substantial inconvenience from having to move out of the Property after the pet dog was discovered; and
- (d) The Respondent had pleaded guilty and there were 2 other TIC charges.

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

**Charge 2:** A financial penalty of \$5,000 and a suspension of 4 months.

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

*Updated on 6 September 2024*