

Review Decision in terms of Section 50 of the Housing Scotland Act 2014 regarding failure to comply with a Letting Agent Enforcement Order made in terms of Section 48 of the Housing (Scotland) Act 2014.

Reference number: FTS/HPC/LA/23/0211

Re: Property at Newmiln North Cottage, Guildtown Perth PH2 6AE (“the Property”)

Mr Keith Legg, Mrs Kerry Legg (the Applicants)

Belvoir Perth (“the Respondent”)

1. Decision

The Tribunal hereby determines that the Respondent has failed to comply with the Letting Agent Enforcement Order dated 25 August 2023 and the failure should be notified to Scottish Ministers.

The decision is unanimous.

Reasons for Decision

2. The Tribunal issued a Letting Agent Enforcement Order ("LAEO") on 25 August 2023 in the following terms:

Within 30 days of their receipt of this Letting Agent Enforcement order the Respondent Belvoir Perth shall:

- 1. Pay the applicant the sum of £1899.44 respect of their losses and inconvenience arising out of their failure to comply with the Letting Agent Code of Practice.*
- 2. Arrange a training provider to carry out training to all staff employed by the Respondent to carry out letting agent services. The training should be scheduled to take place no later than February 2024.*
- 3. Provide to the Tribunal Chamber evidence of their compliance with this order.*

4. By email dated 6 October 2023 the Applicants confirmed to the Tribunal that no money had been paid to the Applicants by the Respondent, nor any communication taken place with the Applicants by the Respondent.

5. The Tribunal considered that the period for compliance with the LAEO expired on 30 September 2023 and no steps had been taken by the Respondent to comply with the terms of the LAEO.

6. The Tribunal wrote to the Respondent on 30 October 2023 as follows:

We refer to the Letting Agent Enforcement Order made by the tribunal on 25 August 2023 and sent to you on 30 August 2023. The time for compliance with the Order expired on 30 September 2023 and you have not complied with the order. Unless we hear from you within 14 days with your confirmation and evidence that the order has been complied with, the tribunal will be taking further action. This could be a referral to Scottish Ministers (who make the decisions regarding letting agent registration) or to the police who may decide to refer the case to the Procurator Fiscal.

7. No reply has been received.

8 In terms of section 51(1) of the Housing (Scotland) Act 2014, ('the Act') a letting agent who, without reasonable excuse, fails to comply with a LAEO commits an offence. The Respondent has failed to respond to any communications from the Tribunal regarding the LAEO. The Respondent has failed to comply with the LAEO or provide any reason for the failure. The Tribunal accordingly finds that the Respondent has, without reasonable excuse, not complied with the LAEO, and the failure must be notified to the Scottish Ministers in terms of section 50 of the Act.

Appeals: 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

Lesley Anne Ward
Legal Member

22 November 2023