



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 50 of the Housing (Scotland)
Act 2014**

Chamber Ref: FTS/HPC/LA/18/2339

Re: 166B Montrose Street, Brechin, Angus, DD9 7DZ (“the Property”)

Parties:

Louise Edmunds, 4 Napier Close, Aldershot, Hampshire (“the Applicant”)

**Ivyleaf Homes Ltd., 4 High Street, Brechin, Angus, DD9 6ER (“the
Respondent”)**

Tribunal Members:

Nairn Young (Legal Member) and Eileen Shand (Ordinary Member)

On 10 December 2018, the First-tier Tribunal for Scotland Housing and Property Chamber (“the Tribunal”) issued a Letting Agent Enforcement Order (“the Order”) on the Respondent in respect of a failure to comply with the Letting Agent Code of Practice. The Order contained the following provisions:

“The Tribunal requires the Respondent to take the following steps to rectify said failure:

1. To lodge with the Tribunal a written complaints procedure that is fully compliant with the terms of the LACP;
2. To lodge with the Tribunal a written debt recovery policy and procedure that are fully compliant with the terms of the LACP;
3. To pay to the Applicant the sum of £500 in compensation for the loss suffered as a result of said failure;

such steps to be carried out and completed no later than one month following the service of this Order.”

The time allowed for compliance with the Order has expired and, on a form dated 16 January 2019, the Applicant stated that she had not received payment from the Respondent of the sum due to be paid as required by the Order. The Respondent confirmed on a form dated 28 January 2019 that it had not complied with any of the terms of the Order. The only explanation given was: "Ivyleaf Homes Limited has ceased new business and all landlords and tenants together with all responsibilities will be passed on to another company."

REASONS FOR THE DECISION

The Respondent admits that it has not complied with the Order. No reasonable excuse for failure to comply has been given. The Respondent still exists and has existed throughout the period given for compliance. It should therefore have complied with the Order and any reference to future changes to its status does not absolve it for not having done so. Accordingly, the Tribunal has determined that the Respondent has not complied with the terms of the Order and that, in terms of Section 50(2) of the Housing (Scotland) Act 2014, the Tribunal is obliged to serve notice of that fact on the Scottish Ministers. The Tribunal also considers that a reference to the Procurator Fiscal is appropriate, given the failure to make any effort to comply.

RIGHT OF APPEAL

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. Page 3 of 3 Please note that in terms of Section 51(1) of the Act, a Letting Agent who, without reasonable excuse, fails to comply with a Letting Agent Enforcement Order commits an offence liable on summary conviction to a fine not exceeding level 3 on the standard scale.

N Young

Legal Member/Chair

6 FEBRUARY 2019
Date