

Thursday 5 March 2020

JOINT MINISTERIAL COMMUNIQUÉ ON LETTING AGENCY FEES

We are writing to you in relation to the issue of letting agents' fees, and the judgment given in December 2017 that fees should not be passed on to tenants for services that a letting agent carries out on behalf of a landlord.

The practice of charging tenants fees for services carried out on behalf of landlords, which can place an additional burden on tenants, is an area of particular concern to us. We had hoped that the court judgement would have made clear the lines of responsibility but unfortunately some recent practice show that some agents are not complying with the law.

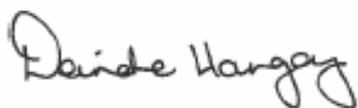
The Department of Finance, which brought forward the Commission on Disposals of Land (NI) Order 1986 as part of its wider policy responsibility for land law, has made clear that the rulings in the *Loughran v Piney Rentals Ltd and F5 Property Ltd* cases in 2017 serve as a reinforcement of the existing legal framework relating to cases where a tenant or prospective tenant is asked to pay for something that relates to a service usually provided to a landlord.

We are therefore writing to confirm the view of both the Department of Finance and Department for Communities that the court rulings reaffirm the guidance to all those involved with the granting of a lease or letting of land, and that a landlord, or an agent of the landlord, cannot oblige a tenant to pay for the professional services provided by their agent. Such a practice is inequitable, unlawful and inconsistent with the normal business principle that he who engages an agent should pay for that agent's services. That was why the 1986 Order was enacted, to bring to an end such practices and it is very concerning that despite the court's clear directions, there is still evidence to suggest that some agents are continuing to charge such fees.

The Department of Finance has confirmed that Article 3 of the Order renders void any case where the person taking land (or property) is obliged to pay commission due to an agent acting for the person disposing of the land, and that it covers all dealings in land, including sales, leases, lettings, and matters such as rent reviews or renewals.

We are writing to inform those of you who may not be aware of the judgment that the practice of charging fees for services carried out on behalf of a landlord is unlawful and must cease. We are copying this letter to Consumer Rights NI and a range of other stakeholders and have asked to be kept informed of any potential abuses so that we can consider whether any

further action is needed. However, we hope this will not be necessary and that charging tenants or prospective tenants will cease in accordance with the law.

A handwritten signature in black ink that reads "Deirdre Hargey". The signature is written in a cursive style with a large initial 'D'.

Deirdre Hargey MLA
Minister for Communities

A handwritten signature in black ink that reads "Conor Murphy.". The signature is written in a cursive style with a large initial 'C'.

Conor Murphy MLA
Minister of Finance