



NOTICE TO LOCAL AUTHORITY

ISSUED BY

**THE PRIVATE RENTED HOUSING COMMITTEE
UNDER SECTION 26(2) OF THE HOUSING (SCOTLAND) ACT 2006**

PROPERTY

61, Kirklee Road, Glasgow G12 0SS registered in the Land Register for Scotland under title number GLA159805

PARTIES

Ms Angela Iles and Mr James McDonald, sometime residing at the Property

Tenant

and

Anthony Thornton and Mrs Deborah Thornton, formerly residing at the Property and now at 40 Marchfield, Milngavie,

Landlord

PRHP Ref: prhp/G12/41/12

24 August 2013

NOTICE is hereby given to Glasgow City Council, being the local authority in which the property is situated, that there has been a failure by the Landlord to comply with a Repairing Standard Enforcement Order in relation to the property in terms of Section 26(1) of the Housing (Scotland) Act 2006. The Statement of Decision of the Private Rented Housing Committee under Section 26(1) of the said Act is attached hereto and referred to for its terms.

If an appeal against the decision of the Private Rented Housing Committee is made, then the effect of the decision is suspended until the appeal is abandoned or finally determined. In the event that the decision is confirmed, then the decision will be effective 28 days from the date on which the appeal is abandoned or so determined. If an appeal is received then the Private Rented Housing Panel will notify you of this and the eventual outcome of the appeal.

The date of service upon the parties of the decision under Section 26 of the Act is hereby certified to be 23 August 2013.

IN WITNESS WHEREOF these presents type written on this and the preceding page are executed as follows:-

D PrestonChairman

24-8-13Date of Signing

OBANPlace of Signing

S PrestonWitness

SHEILA PRESTONName

WESTRAKAddress

JURANGALAN ROAD

OBAN

N.S.W.



PRIVATE RENTED HOUSING COMMITTEE

**STATEMENT OF DECISION OF THE PRIVATE RENTED HOUSING
COMMITTEE UNDER RULE 26(1)) OF THE PRIVATE RENTED HOUSING
PANEL (APPLICATIONS AND DETERMINATIONS)(SCOTLAND)
REGULATIONS 2007**

In connection with

PROPERTY

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PARTIES

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Tenant

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Landlord

PRHP Ref: prhp/G12/41/12

**19 August 2013
Decision**

The Committee, having made such enquiries as is fit for the purposes of determining whether the Landlord has complied with the terms of the Repairing Standard Enforcement Order (hereinafter referred to as "RSEO") dated and served on the Landlord on 15 June 2012 in terms of section 26 (1) of the Housing (Scotland) Act 2006 (hereinafter referred to as "the Act"), determined that the Landlord had failed to carry out the repairs specified in the RSEO.

Background

1. Reference is made to the Determination of the Committee dated and served on the Landlord on 15 June 2012 which decided that the Landlord had failed to

comply with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 ("the Act") and to the RSEO issued by the Committee which required the Landlord to carry out works as specified therein. The said works were to be carried out and completed within 6 weeks from the date of service of the Notice of the RSEO, which was effected on 15 June 2012

2. By email dated 5 July 2012 Mrs Thornton, on behalf of the Landlord requested revocation of the RSEO on the basis that the Tenant had vacated the property which was no longer let, it was unoccupied and on the open market for sale. The Committee agreed to vary the terms of the RSEO by extending the period within which the works were to be carried out to a date 6 months after service of the Notice of Variation. The Decision and Reasons for the Variation dated 28 July 2012 clearly set out the basis upon which the Committee made the decision and narrated the reasons why it was not able to revoke the RSEO.
3. Following the expiry of the period within which the Landlord had been required to complete the work, on 8 February 2013 the surveyor member of the Committee attempted to carry out a re-inspection. The Landlord had been notified of the re-inspection by First Class post and Recorded Delivery letter on 25 January 2013 to which no response was received. On attendance at the property, the surveyor member was unable to gain access.
4. The email from Mrs Thornton referred to above advised that the only works which had been carried out as required under the RSEO was that a chimney cap had been replaced. It indicated that the Landlords neither wished to change the windows nor fit a kicking plate beneath the dishwasher and no report had been obtained from a qualified Gas Safe engineer.
5. On 18 February 2013, following the attempted re-inspection a letter was sent to the Landlord advising of the situation and offering an opportunity to make representations in respect of the situation to assist the Committee in making a further determination. No response was received to that letter and there was no further communication from the Landlord following the email from Mrs Thornton dated 5 July 2012. The Committee was aware that the property remained on the market for some time and was satisfied that it had been vacant.
6. After further enquiry, the Committee became aware that the property might have been sold. Accordingly on 7 August 2013 the Committee sent a letter to the Landlord requesting up to date information in regard to the sale of the property and asking for a response within 14 days, otherwise it would be minded to proceed with the issue of a Notice of Failure and a report to the Police of the failure to comply with the terms of the RSEO.
7. On 8 August 2013, the Landlord telephoned the office of PRHP and stated that she no longer owned the property which had been sold. She also stated that she was not willing to put that in writing as she considered that the repairs required in the RSEO were ridiculous.
8. The Committee considered all the circumstances. It was mindful of its obligations under the Act to ensure that the Landlord of a property in respect of which an application was made to it fulfilled their obligations under the Act to ensure that the property meets the repairing standard. Having inspected the property and found that it failed to meet the repairing standard, the Committee had an obligation to issue a RSEO and require that necessary work was carried out.

9. Although the Tenant who had made the application had vacated the property, they had been in occupation at the time of the inspection. Accordingly the Committee had an obligation to carry out the inspection and make a determination. The fact that the property had been vacated did not enable the Committee to abandon the application, particularly in view of the nature of the complaints raised by the application which indicated that the Landlord had failed to maintain the property wind and watertight or to produce a Gas Safe certificate.
10. The Committee was conscious that some time had passed without these obligations being fulfilled but it was satisfied that the property had been vacant during that time while on the market. However following the sale of the property, the Committee was unaware of the status of the property or of the intentions of the new owner. In the event that the property was re-let by the new owner, as a single unit or as a multiple occupancy unit, without the work required in the RSEO being carried out, it will fail to meet the repairing standard.
11. The Landlord had failed to comply with the terms of the RSEO and had indicated that in their view the requirements were ridiculous.
12. The Act provides a remedy for Landlords who are aggrieved by a decision of the Committee, namely to appeal against the decision to the Sheriff. The Landlord failed to exercise that right and accordingly remains in breach of the RSEO.
13. The Committee was satisfied that the Landlord had been given ample opportunity to comply with the order, or to seek a variation of its terms under the Act, but they had not availed themselves of any such opportunity. Accordingly the Committee had no option but to issue a Notice of Failure.
14. The decision of the Committee was unanimous.

Right of Appeal

A landlord or tenant aggrieved by the decision of the Private Rented Housing committee may appeal to the Sheriff by summary application within 21 days of being notified of that decision.

Effect of section 63

Where such an appeal is made, the effect of the decision and of the order is suspended until the appeal is abandoned or finally determined, and where the appeal is abandoned or finally determined by confirming the decision, the decision and the order will be treated as having effect from the day on which the appeal is abandoned or so determined.

D Preston
.....Chairman

Date 18-8-13