

Notice of a decision to Vary

A Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

prhp Ref: PRHP/IV51/68/13

Re: Property at Altavaig, 3 Flodigarry, Portree, Isle of Skye, IV51 9HZ ("the Property")

The Parties:-

SKYE HOLIDAYS LIMITED a company incorporated under the Companies Acts (Company Number 4880840) and, prior to dissolution, having their Registered Office at The Old House, Deanslade Farm, Claypit Lane, Lichfield, Staffordshire, WS14 0AG ("the Landlord")

QUEEN'S AND LORD TREASURER'S REMEMBRANCER, Unit 5, 14 South St Andrew Street, Edinburgh, EH2 2AZ ("the QLTR")

GREATOAK LIMITED, a company incorporated under the Companies Acts (Company Number 02842790) and having its Registered Office at The Old House, Deanslade Farm, Claypit Lane, Lichfield, Staffordshire, WS14 0AG ("Greatoak")

MISS IMOGEN MACQUARRIE residing at Altavaig, 3 Flodigarry, Portree, Isle of Skye, IV51 9HZ ("the Tenant")

NOTICE TO SKYE HOLIDAYS LIMITED, QLTR and GREATOAK ("the Landlord")

The Private Rented Housing Committee having determined on 20 March 2012 that the **Repairing Standard Enforcement Order** relative to the Property served on 5 July 2013 should be varied, the said **Repairing Standard Enforcement Order** is hereby varied with effect from the date of service of this Notice in the following respects:-

1. The period allowed for the completion of the work required by the order is extended to 30 June 2014.

Subsection 25(3) of the Housing (Scotland) Act 2006 does not apply in this case.

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

Where such an appeal is made, the effect of the variation is suspended until the appeal is abandoned or finally determined, and where the appeal is abandoned or finally determined

by confirming the decision, the variation will be treated as having effect from the day on which the appeal is abandoned or so determined.

In witness whereof these presents type written on this and the preceding page are executed by Ewan Kenneth Miller, Solicitor, Whitehall House, 33 Yeaman Shore, Dundee, DD1 4BJ, Chairperson of the Private Rented Housing Committee at Dundee on 2 May 2014 before this witness:-

E Miller

_____ witness

Chairman

L Johnston

Lindsay Johnston
Secretary
Thorntons Law LLP
Whitehall House
33 Yeaman Shore
Dundee
DD1 4BJ



**Statement of decision of the Private Rented Housing
Committee under Section 25 (1) of the Housing
(Scotland) Act 2006**

prhp Ref: PRHP/IV51/68/13

Re: Property at Altavaig, 3 Flodigarry, Portree, Isle of Skye, IV51 9HZ ("the Property")

The Parties:-

MISS IMOGEN MACQUARRIE residing at Altavaig, 3 Flodigarry, Portree, Isle of Skye, IV51 9HZ ("the Tenant")

SKYE HOLIDAYS LIMITED a company incorporated under the Companies Acts (Company Number 4880840) and, prior to dissolution, having their Registered Office at The Old House, Deanslade Farm, Claypit Lane, Lichfield, Staffordshire, WS14 0AG ("the Landlord")

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GREATOAK LIMITED, a company incorporated under the Companies Acts (Company Number 02842790) and having its Registered Office at The Old House, Deanslade Farm, Claypit Lane, Lichfield, Staffordshire, WS14 0AG ("Greatoak")

Decision

The Committee, having made such enquiries as it saw fit for the purposes of determining whether the Landlord had complied with the Repairing Standard Enforcement Order ("RSEO") in relation to the Property determined that the Landlord should be given a further extension to 30 June 2014 to allow completion of the works required in terms of Section 25(1) of the Housing (Scotland) Act 2006 ("the Act").

Background

1. Reference was made to the Determination of the Committee dated 5 July 2013 which determined that the Landlord had failed to comply with the duty imposed by Section 14(1)(b) of the Act and that they had failed to ensure that the Property met the repairing standard. The works required by the RSEO were:-
 - (a) To produce a clear gas safety certificate from a suitably qualified gas safe registered engineer confirming that the gas installation and appliances at the Property comply in all respects with the relevant regulations.
 - (b) To replace the former radiator in the kitchen with a proper working radiator compliant with the repairing standard.
 - (c) Subject to any requirements relating to the issue of a gas safety certificate to either repair/redecorate the area where the former vent above the door was or to install a new covering/vent over this.
 - (d) To install a hardwired interlinked smoke detection system compliant with the relevant regulations.

- (e) To produce a clear electrical installation condition report over all of the electrical systems within the Property, produced by a suitably qualified electrical engineer.
- (f) To carry out such works of repair or replacement and adjustment to the rear door/frame at the Property, sufficient to render it properly wind and watertight and otherwise compliant with the repairing standard.
- (g) To carry out such works of repair or replacement to the guttering at the Property to ensure it is in proper working order.
- (h) To carry out a levelling of the access road running along the front of the Property and to erect a suitable protective barrier sufficient to significantly reduce the risk of any vehicle or person falling down the slope.

The RSEO gave the Landlord 4 months to carry out the works.

2. Subsequent to the expiry of the said 4 month period, both the Landlord and Tenant were asked to provide information as to whether all the works had been carried out. It was apparent from the information received by the Committee that not all works had been carried out within the said four month period.
3. A further inspection was arranged for 20 March 2014. Mr E K Miller (Chairman and Legal Member) and Mr R Buchan (Surveyor Member) again attended at the Property on this date. The Tenant was present as was the Landlord's agent, Mr Andrew Butler. Subsequent to the inspection a Hearing was held at Highland Council offices, Portree. The Landlord's agent was present as was the Tenant. She was accompanied by Sandra McDonald, Housing Management Manager for Highland Council.
4. The Committee noted during the course of the Inspection that the works required in terms of (a) to (c) of the RSEO had not been dealt with. No gas safety certificate had been produced. There was no new radiator in the kitchen and the hole where the former vent was above the door was still present.

The Committee noted that the hardwired interlinked smoke detection system had been installed since the original inspection.

The Committee noted that no electrical installation condition report over the electrical systems within the Property had yet been produced.

The Committee noted that a new door had been installed at the rear of the Property.

It was not apparent that any works had been carried out to the guttering at the Property.

Significant works had been carried out with the levelling of the access road running along the front of the Property and the erection of a protective barrier. These works had been carried out to a good standard and only some minor finishing works remained outstanding.

5. A discussion on the various works that had been carried out and the remaining items outstanding took place at the Hearing.

In relation to items (a) to (c), the Landlord's agent advised that they had ordered a new boiler some time ago. Whilst the Landlord's agent understood that the boiler had now been delivered to the tradesman, he had then been unable to get the tradesman to deliver and install it. In an attempt to move matters forward the Landlord's agent had contacted Calor Gas and was having one of their own engineers come and install a new boiler directly and to deal with the other works required to allow compliance with items (a) to (c). The Landlord provided documentation in the form of emails between himself and the Calor Gas engineer which confirmed this position.

In relation to the smoke detection system, the Committee was satisfied that this now complied with the terms of the RSEO.

In relation to the electrical installation condition report, the Landlord had produced some documentation relating to works that had been carried out both recently and historically. The Committee highlighted to the Landlord's agent that what had been requested here was a clear and current electrical installation condition report. This was a statutory form in a prescribed format that should have been produced by the electrician. Even if the actual works had been done, this production of this report was still a requirement of the Committee.

The Committee was satisfied that the rear door now met the repairing standard.

In relation to the guttering/roof, the Landlord's agent advised that the roof was still to be powerwashed to get rid of moss and that this would then mean compliance had been achieved.

In relation to the access road, the Landlord's agent advised that there were still a couple of small bits of work to be done with the addition of a small area of fencing on the barrier, some lights and some further chips to be spread.

In summary the Landlord requested an extension to allow the last of these works to be carried out.

After discussion the Tenant indicated that she was willing to agree to an extension as well.

The Committee adjourned to consider matters. The Committee determined that it would be prepared, given both parties were in agreement, that a short extension would be given. The Committee determined the Landlord would be given until 30th June 2014.

The Committee highlighted to the Landlord's agent that compliance with the RSEO was not optional. Each of the individual items listed in the RSEO needed to be dealt with in full. The Committee accepted that there were some difficulties in getting a suitable gas engineer to carry out work in a remote location.

The Committee indicated that it did not expect to have to carry out any further inspections or hearings in relation to this Property. The Committee fully expected the Landlord and Tenant to liaise to ensure that workmen were instructed and that access was given to them at the appropriate time.

Once the works were completed the Committee fully expected to receive a clear gas safety certificate, a clear electrical installation condition report and photographic evidence that the guttering/roof clean had occurred and that the last items in relation to the protective barrier had also been carried out.

The Committee noted that the Landlord was trying to bring the lease with the Tenant to an end. The Committee would highlight that it is a criminal offence for a property to be re-let whilst an RSEO remains in place on a property.

Decision

6. The decision of the Committee was to grant the Landlord until 30 June 2014 to comply with the RSEO.
7. The decision of the Committee was unanimous.

Right of Appeal

8. 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

9. 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.

Signed **E Miller** Date 6/5/14
Chairperson