



Confirmation of refusal/ lack of access following a Decision to Assist the Landlord under Section 28A(3) of the Housing (Scotland) Act 2006 (“The Act”)

Ref FTS/HPC/RE/23/4346

HOUSE AT Craig Cottage, Craig, Strathcarron, IV54 8YU

TENANT Mr Matthew Wickham, Mrs Deborah Wickham

LANDLORD Captain Nicholas Wills, Miserden Estate, Miserden, Stroud, Cloucester, GL6 7JA

LANDLORD REPRESENTATIVE Murchison Law, 5 Ardross Terrace, Inverness, IV3 5NQ

NAME OF AUTHORISED PERSON Mr Sandy Reid from Enviraz, Elgin

As the Member deciding on the above application for entry by the landlord, I confirm that attempts have been made to assist the landlord in exercising their right of entry to the house under section 181(4) of the Act.

The attempts involved the following:

notification of the application made under section 28 A(1) on the tenant dated 15.2.24;

intimation on tenant and landlord of decision to assist the landlord dated 15.2.24;

consideration of representations from tenant on the application received on 16.2.24

consideration of further information in the form of a conference call held on 17.5.24 at 2pm to which both parties attended.

setting of a date and time by the panel member for the landlord to exercise the said right, that date and time being 31st July 2024 at 2pm;

notification by the Chamber of that date and time to the tenant and landlord on 10.7.24 at 13.45

receipt by the tenant of this notification is evidenced by confirmation from Sheriff Officers that they hand delivered the notification on 10.7.24.

I confirm that I observed the lack of access on 31.7.24. I arrived at the property at 2pm and waited until Mr Reid arrived around 2.20pm. We then knocked on the door twice but no one was at home. We left around 2.25pm.

During the conference call held on 17.5.24, Mr & Mrs Wickham had agreed to allow access to Mr Reid to inspect the areas of the house that related to the repairs specified in the Repairing Standards application, but not to inspect the windows that they did not regard as part of that application. This limited access was not acceptable to the Landlord's Representative and therefore no agreement could be reached. I set a date for this access visit. Mr & Mrs Wickham informed the Tribunal that they would be away on holiday on that date. The Landlord's Representative was asked to decide if he wanted the visit to proceed on the set date anyway and he confirmed that he did.

In deciding whether to seek a warrant from the Sheriff Court, I have considered all of the information provided by both parties throughout this process. I have taken into account the health issues that Mr Wickham has, and the fact that there are no health and safety implications for the Tenants or their neighbours if the asbestos is left untouched. I do not consider it would be appropriate or proportional to seek a warrant to force entry to the property in order for an "initial assessment of whether an Asbestos Refurbishment Survey should be undertaken and assess how invasive this would be." Clearly there is a need for major work to be carried out to this property which is unlikely to be able to be carried out while Mr & Mrs Wickham are still occupying the property.

E Munroe

E Williams

First-tier Tribunal for Scotland (Housing and Property Chamber)