

Tracey, Christopher

From: Tracey, Christopher on behalf of HPCAdmin
Sent: 25 August 2023 09:14
To: 'FifeBSU@Scotland.police.uk'
Subject: FTS/HPC/RP/22/2485 8 Woodside Terrace Cardenden Lochgelly KY5 0LZ
Attachments: Prosecution Certified Copy Form (Original).pdf; Statement of Decision (Failure to comply),2485.pdf; Reasons for RRO1..pdf; RSEO.2485.pdf; Statement of decision (RSEO)2485.pdf

Dear Sir/Madam

CONTRAVENTION OF THE HOUSING (SCOTLAND) ACT 2006 SECTION 28(1)
BY LANDLORD: Miss Kathleen Reilly, Inchdairine Cottages, Lochgelly, Fife, KY5 0UL
Property subject of Complaint: 8 Woodside Terrace, Cardenden, Lochgelly, KY5 0LZ
Tenant: Mr Pawel Kwiatkowski, 8 Woodside Terrace, Cardenden, Lochgelly, FY5 0LZ

I shall be obliged if you would consider the following circumstances which constitute an offence. Please arrange for the necessary enquiries to be made and for consideration to be given to interviewing and charging the Landlord detailed above with the offence specified, and thereafter for this matter to be referred to the Procurator Fiscal for prosecution.

An Application was made to the First-tier Tribunal for Scotland (Housing and Property Chamber) regarding the above house for a determination as to whether the Landlord had failed to comply with duties imposed by section 14 (1)(b) of the Housing (Scotland) Act 2006. This section provides that the Landlord must ensure that the house meets the repairing standard at all times during the tenancy.

A tribunal was formed and inspected the house and following that inspection, the tribunal held a hearing and determined that the Landlord had failed to comply with the duty imposed and proceeded to make a Repairing Standard Enforcement Order (RSEO) as required by Section 24 (2) of the 2006 Act. The RSEO required the Landlord to complete specified works to the house as detailed in the Order within a timescale specified in the RSEO.

After expiry of the time-limit detailed in the RSEO, there was a re-inspection of the house for the purpose of ascertaining if the said repairs detailed in the RSEO had been completed and the tribunal considered the findings at the inspection and any representations made by the Landlord. The tribunal in light of the information presented, did not consider that satisfactory progress had been made in carrying out the required works and did not consider that it was appropriate to vary the RSEO by giving the Landlord a further extension of the time for completion of the works and the tribunal proceeded to consider whether there had been a failure to comply with the RSEO in terms of Section 26(1) of the Act.

The tribunal then decided that the Landlord had failed to comply with the Repairing Standard Enforcement Order (RSEO) and advised the Local Authority of this. This matter is referred to you to initiate a prosecution under Section 28(1) of the Housing (Scotland) Act 2006. Section 28(1) provides that a Landlord who, without reasonable excuse, fails to comply with a RSEO commits an offence. A copy of the tribunal's decision under section 26(1) that there had been a failure to comply with the RSEO is attached.

In terms of Section 28(4) of the Housing (Scotland) Act 2006, a Landlord cannot be guilty of an offence under Section 28(1) of that Act unless the tribunal which made the Repairing Standard Enforcement Order in question decides that the Landlord has failed to comply with it (but such a decision does not establish a presumption that the Landlord has committed an offence under Section 28(1)).

Members of the Committee are P Doyle (Legal Member) and G Adams (Ordinary Member).

Should you require further information, including certified copies of the judicial decisions, please do not hesitate to contact us.

Yours faithfully

A Devanny
President of the First-tier Tribunal for Scotland (Housing and Property Chamber)
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Kind Regards,
C Tracey

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Please note tribunal staff are not qualified or permitted to provide legal advice.

**Please send all email replies to HPCAdmin@scotcourtribunals.gov.uk
Website: www.housingandpropertychamber.scot**