



**Statement of Facts and Reasons for decision to grant a Certificate of Completion of Work under Section 60 of the Housing (Scotland) Act 2006**

**prhp Ref:** PRHP/IV25/21/07

**Re :** Property at Balnapolaig, Dornoch, Sutherland, IV25 3HY ("the Property")

**Sasine Description:** ALL and WHOLE that plot or area of ground together with the property known as and forming Balnapolaig Farm House erected thereon being the subjects described in Disposition by John Charles Murray to Ian Robichaud recorded in the Division of the General Register of Sasines for the County of Sutherland on 11 October 2000.

**The Parties:-**

**Mr and Mrs Andrew Kennard, residing at Balnapolaig Farmhouse, Dornoch, Sutherland ("the Tenants")**

**Mr Ian Robichaud, care of Linda Robichaud, 58 Moray Park Avenue, Culloden, Inverness, IV2 7LS ("the Landlord")**

**Statement of Facts and Reasons to Julie Anne Kean ("the Landlord")**

- (1) Mr Mark Andrew, Surveyor Member of the Private Rented Housing Committee reinspected the property on 28 October 2009 at 10am, in order to ascertain whether or not the work required by the Repairing Standard Enforcement Order ("RSEO") previously served on the Property had been completed.
- (2) Both the Tenants and the Landlord were present at the inspection and able to give comments and explanation to Mr Andrew.
- (3) The Committee noted that in terms of the report they had received from Mr Andrew that:-
  - (a) the cobbled surface outside the kitchen window had been levelled off and the stones fixed in position with cement mortar joints;
  - (b) the gutter and downpipe to the rear extension had been replaced. A new roof water gully and drain had been installed and the soakaway relocated to the garden. In recent heavy rain the drain had apparently coped with the water from the gutter;

- (c) the back door had been replaced along with the threshold and frame. From Mr Andrew's inspection the door appeared to open and close properly and was fitted with draught proofing;
  - (d) the ground floor windows had all been replaced with new double glazed timber windows and these had been fully finished with timber internally. The Committee noted that these had been carried out to a high standard and this was acknowledged by the Tenants. The first floor windows had not been replaced but rather had been repaired. These all opened and closed properly and had new brass casement stays. The internal plasterwork had been repaired where appropriate and there were now no longer any holes around the frame. There was no evidence of water ingress. The upper floor windows remain generally in poor condition with rotting external fascia boards. Internally the windows were poorly decorated but reasonably sound. Overall Mr Andrew was satisfied that the upstairs windows were in proper working order and wind and watertight. They are consistent with the age and form of construction of the property itself but will require replacement in the not too distant future;
  - (e) the internal door and frame had been repaired and the hinges replaced. The door fitted and functioned properly although it was noted that the ball catch installed was very strong and required a great deal of force to ensure that the door opened;
  - (f) the boundary wall had been rebuilt adjacent to the gate to an appropriate standard;
  - (g) the dining room fire had been replaced with a log burning stove and the chimney relined with a stainless steel liner that was fixed onto the flue of the stove. The Tenants confirmed that during the course of the inspection that the fire worked and had a reasonable draw on it;
  - (h) the kitchen has been decorated, pipes boxed in and the Tenants have provided their own freestanding units. The Landlord has replaced the sink unit. Overall the kitchen had now been improved to a good standard;
  - (i) there was a functioning mains wired linked smoke detection system on the ground and first floors which was in proper working order.
- (4) The Committee, upon receiving Mr Andrew's Report from the reinspection, considered whether further action was now required. Although Mr Andrew's Report indicated that the work had been done to a satisfactory standard the Committee were conscious that the Tenants had complained regarding the standard of some of the redecoration following upon the repairs and on other matters. Given the previous difficult relationship between the Landlord and Tenants, the Committee were minded to reconvene another Hearing in order that both parties could further comment on the works that had been carried out by the Landlord.
- (5) The Committee reconvened on 11 November 2009 at 10.45am at The Spectrum Centre, Inverness. Present were Mr E K Miller (Chairman and Legal Member), Mr Mark Andrew (Surveyor Member), Mrs Linda Robertson (Housing Member) and Mr Robert Shea (Clerk to the Committee). The Landlord was present. The Tenants did not appear at the Hearing.

- (6) The Committee explained to the Landlord the various options that were open to them in relation to the RSEO. The Committee invited comments from the Landlord. The Landlord felt that he had carried out the works in line with the RSEO. When questioned as to why he had not replaced the upper floor windows he was of the view that he would not have had time to replace all of the windows in the building within the timescale specified by the RSEO and therefore had proceeded to only replace the downstairs windows. He was of the view that the upper floor windows were wind and watertight although he did accept they were still not in the best of condition and would, at some point in the not too distant future, require replacement. The Committee questioned him on the continued complaint from the Tenants that the redecoration works were not to an appropriate standard. The Landlord was of the view that any areas that still required redecoration were very minor and in no way affected the habitability or enjoyment of the Property by the Tenants. Mr Andrew confirmed that the Tenants had drawn his attention to the finish around the internal door. The repaired plasterwork had been painted white but as the rest of the wall had discoloured over time this did not quite match. There were also some small patches of unpainted wood on the doorframe. Mr Andrew pointed out that you did have to look quite hard for these to find them. A second complaint from the Tenants was in relation to the dining room fireplace where the wall had been painted but not repapered. There was a gap of a rolls width of woodchip above the fireplace. However the wall had been redecorated to match the rest of the room and again this was barely noticeable.
- (7) Upon conclusion of the Hearing, the Committee considered the position here. They were satisfied that the Landlord had complied with the RSEO. The works that had been carried out had been to a good standard, in particular the windows and the kitchen. There were one or two very minor areas of redecoration that could have perhaps been done slightly better but the Committee were of the view that these were so immaterial in nature that it would be inappropriate not to remove the RSEO. The Committee noted that the Tenants considered that the Landlord had failed on a number of other issues but as these were new matters that had not been raised previously, the Committee were not in a position to deal with them. Accordingly the Committee decided that all material works required by the RSEO had now been satisfactorily carried out and accordingly the Committee decided to grant a Certificate of Completion.
- (8) Subsequently the Committee were provided with a letter that had been sent to the PRHP by the Tenants but had not been available at the Hearing itself. The letter set out a number of issues that the Tenants had with the Landlord. Although this was received after the Hearing, the Committee did consider it. However the letter did not provide any material comment on the works carried out under the RSEO. There were a number of new issues complained of and a number of issues which the Committee had already decided at the original inspection were not required for the property to meet the repairing standard. Accordingly the Committee did not feel that the terms of the letter altered their decision and proceeded to grant a Certificate of Completion.

**A landlord or a 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.**

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.





Certificate of completion of work

Issued by the Private Rented Housing Committee

Under section 60 of the Housing (Scotland) Act 2006

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Mr Ian Robichaud, care of Linda Robichaud, 58 Moray Park Avenue, Culloden, Inverness, IV2 7LS ("the Landlord")

**CERTIFICATE OF COMPLETION**

The Private Rented Housing Committee hereby certifies that the work required by the **Repairing Standard Enforcement Order** relative to the Property served on 2 June 2009 has been completed. Accordingly, the said Repairing Standard Enforcement Order relative to the property has been discharged.

**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.**

In witness whereof these presents type written on this page are executed by Ewan Kenneth Miller, Solicitor, Whitehall House, 33 Yeaman Shore, Dundee Chairperson of the Private Rented Housing Committee at Dundee on 25 November 2009.

before this witness:-

**L Johnston**

\_\_ witness

**E Miller**

.Chairman

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Legal Secretary