

## **Determination by the Private Rented Housing Committee**

### **Statement of decision of the Private Rented Housing Committee under Section 24 (1) of the Housing (Scotland) Act 2006**

**Re : Property at Findoglen House, St Fillans Perthshire ("the Property") being All and Whole Findoglen House St Fillans, part £4 land of Ardvorlich, 40s land of Downan and Balinalt 40s land of Balimenoach, and £4 lands of Easter and Wester Finglens described in Disposition to Ardvorlich Estates Ltd recorded in the general Register of Sasines on 5<sup>th</sup> Jan 1967**

#### **The Parties:-**

**Mr and Mrs Flynn, Findoglen House, St Fillans Perthshire ("the Tenants")**

**Ardvorlich Estate Limited (Mr and Mrs Stewart) Ardvorlich Lochearnhead, Perthshire ("the Landlord")**

#### **Decision**

**The Committee, having re-convened the hearing and having heard further submissions from the Landlord determined that the Landlord had now complied with the terms of the Repairing Standard Enforcement Order of 22 July 2008**

#### **Background**

1. By application dated 26 January 2008, the Tenants applied to the Private Rented Housing Panel for a determination as to whether the Landlord had failed to comply with the duties imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 ("the Act").
2. The Private Rented Housing Committee inspected the property on 15 April 2008 and thereafter held two hearings, one on 15 April 2008 and another on 10 July 2008. Following the inspection and the hearings the Committee determined that the Landlord had failed to comply with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 and made a Repairing Standard Enforcement Order on 22 July 2008. This Order was not appealed by either the Landlord or the Tenants. In terms of the Order the Landlord was given a period of two months to comply with the same.
3. Two members of the original Committee re-inspected the property on 1 October 2008. The Tenants and the Landlord were present during the inspection. Following the inspection the two members of the previous Committee held a hearing at St Serf's Episcopal Church in Comrie. The Landlord and the Tenants were present.
4. At the re-inspection the Committee went through each matter listed in the Repairing Standard Enforcement Order and determined that the Landlord had complied with Conditions a., b., d., e., and g. of the Repairing Standard Enforcement Order dated 22 July 2008 but had not yet fully complied with Condition c. and f. of the said Order. At this time, the Committee accordingly determined that Conditions c. and f. of the Order were still in force and the Landlord was given another twenty eight days to overhaul the windows of the property to ensure that they are in a reasonable state of repair and in proper working order and to obtain a report from a plumbing and heating engineer in

- connection with whether the central heating system was sufficient and in proper working order.
5. The Committee re-convened on 23 January 2009 with all members present. The Landlord and the Tenants were in attendance.
  6. Due to difficulties with regard to access, the Committee determined that the Landlord be given a further twenty eight days from when access was obtained to comply with conditions c and f of the Repairing Standard Enforcement Order dated 22 July 2008.
  7. The Committee re-inspected the property on 5 June 2009 and noted that all the windows in the property were now capable of opening and had also been made safe by the fitting of catches. The Committee also noted that a new radiator had been provided in the main living room and a number of fireplaces in the property which had previously been boarded up had now been opened up and restored.
  8. The Committee reconvened the hearing after the inspection on 5 June 2009. The Landlords were present but the tenants were not in attendance.
  9. The Committee heard submissions from the Landlord to the effect that the central heating system was now in proper working order and had had a safety valve fitted. A report had been provided indicating the output of the radiators and the radiator in the living room had been replaced. The Landlord also pointed out that there were a number of open fires in the property which were all in working order. The Landlord submitted that the central heating system was working as it was designed to and that the heating was adequate especially taken together with the other forms of heating in the property. The Landlord submitted that the windows had now been overhauled and were working properly.
  10. The Committee noted that the tenants had vacated the property on 20 February 2009. The Private Rented Housing Panel had not been provided with a forwarding address for the tenants but the landlord advised at the hearing that the tenants had arranged for redirection of mail. The Committee accordingly determined that in order to ensure that the tenants were given an opportunity to attend the hearing and make representations, another hearing date be arranged for 30 June 2009.
  11. The fresh hearing date of 30 June 2009 was intimated to the tenants and the Landlord. The tenants were advised that if they wished to make representations and attend the fresh hearing they should advise the Private Rented Housing Panel by 22 June 2009. The Landlord indicated that they did not wish to attend a fresh hearing unless the tenants were to be in attendance. The Private Rented Housing Panel had not heard anything from the tenants by 26 June 2009 and accordingly the further hearing date was cancelled.

#### **Decision**

12. It was clear to the Committee from the inspection that the windows in the property were now all capable of being opened and also had either safety cords or catches attached to prevent them from being dangerous. The Committee accordingly found that taking into account the age, character and location of the building, the windows were now in a reasonable state of repair and in proper working order.
13. In connection with the central heating system, the Committee noted that a new radiator had been installed in the main living room and that a safety valve had been fitted to the boiler. The Committee had previously had concerns with regard to the size of the radiator in the eastmost ground floor living room. However upon re-inspection it was clear that the

fireplace in this room had now been restored and opened up and there was no longer evidence of any damp in the room. The Committee noted the report provided by the Landlord's heating engineer showing the heat loss summary for the various rooms. It was clear from the inspection that the central heating system is now in proper working order and the Committee also noted that there were other forms of heating now available in the house. In connection with the condensation in the utility room, back living room and bathroom, the Committee consider that now that the central heating system is working properly and the windows have been overhauled so that they can be opened for ventilation, any condensation problems should now be resolved.

14. The Committee accordingly consider that Conditions c and f of the Repairing Standard Enforcement Order have now been met. The Committee is accordingly satisfied that all the works required by the Repairing Standard Enforcement Order have been satisfactorily carried out. Accordingly the Committee decided to grant a Certificate of Completion.

#### **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.

Signed .....  
Chairperson

**J Lea**

..... Date 30 June 2009

**Certificate of completion of work**

**Issued by the Private Rented Housing Committee**

**Under section 60 of the Housing (Scotland) Act 2006**

**Re: Property at Findoglen House, St Fillans Perthshire ("the Property") being All and Whole Findoglen House St Fillans, part £4 land of Ardvorlich, 40s land of Downan and Balinalt 40s land of Balimenoach, and £4 lands of Easter and Wester Finglens described in Disposition to Ardvorlich Estates Ltd recorded in the general Register of Sasines on 5<sup>th</sup> Jan 1967**

**The Parties:-**

**Mr and Mrs Flynn, Findoglen House, St Fillans Perthshire ("the Tenants")**

**Ardvorlich Estate Limited (Mr and Mrs Stewart) Ardvorlich Lochearnhead, Perthshire ("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 29 July 2008 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 and the preceding page(s) are executed by Judith V Lea, solicitor, Unit 3.5 The Granary Business Centre, Coal Road, Cupar, Fife, KY15 5YQ, chairperson of the Private Rented Housing Committee at Cupar on 30 June 2009 before this witness:-

**R Graham** \_\_\_\_\_ witness

**J Lea** \_\_\_\_\_ chairman

Rachel Graham  
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Secretary