



**Determination by Private Rented Housing Committee
Statement of decision of the Private Rented Housing Committee under Section 26 (1) of the
Housing (Scotland) Act 2006**

Ref: PRHP/RP/13/0132

Re property at: 28 McKenna Drive, Airdrie, ML6 OJE ("the Property")

Land Register Title Number: **LAN51692**

The Parties:-

Miss Jane Murray, formerly residing at 28 McKenna Drive, Airdrie, ML6 Oje ("the former Tenant")

And

Ms Katrina Bonett, residing at 37 Hyslop Street, Airdrie, ML6 0ES ("the Landlord")

Decision

The Private Rented Housing Committee ("the Committee"), has now determined that the Landlord has failed to comply with the requirements of the Repairing Standard Enforcement Order ("RSEO") dated 30 April 2014, and further determined that notice of that failure should be served on the Local Authority in which the property is situated. The Committee has further determined not to make a Rent Relief Order in this matter.

Background

1. On 30 October 2014, the Committee issued a decision which stated that the Landlord had failed to comply with the duties imposed by Section 14 (1) (b) of the 2006 Act. On the same day the Committee issued a RSEO in respect of the property.
2. The RSEO made by the Committee required the Landlord to produce evidence that the gas central heating system and boiler were in full and working order and to produce a valid and up to date Gas Safety Certificate in terms of the Gas Safety (Installation and Use) (Regulations) 1998. The Committee determined that these documents should be produced within 28 days of the issue of the RSEO.

3. On 21st August 2014, the surveyor member of the Committee re-inspected the property. At that re-inspection he noted that the property was now occupied by a different tenant. He was not able to obtain evidence that there was a Gas Safety Certificate and was not able to test whether the gas central heating system and boiler were in full and proper working order.
4. A copy of the report prepared by the Committee surveyor member following that re-inspection was intimated to the landlord. The landlord was invited to respond to the letter and to confirm whether he agreed or disagreed with the surveyor member's re-inspection report. No response was received.
5. In January 2015, the Committee considered the current status of this application. They agreed that a further reminder should be sent to the landlord asking that the appropriate reports be produced. A reminder was issued to the landlord asking her to produce the relevant documents required by the RSEO. That reminder was sent to the landlord by email dated 23rd January 2015 and required a response to be provided by 30th January 2015.
6. To date the landlord has still failed to respond to the Committee's invitation to provide the documents required in terms of the RSEO or to respond to the surveyor's re-inspection report.
7. Accordingly the Committee has determined that the landlord has failed to comply with the requirements of the RSEO and have further determined that notice of that failure should be served on the local authority in which the property is situated all in terms of section 26 of the Act.
8. The Committee are required in terms of section 26 (2) (b) of the Act to decide whether to make a Rent Relief Order. In this case the original tenant who lodged the application has vacated the property. There is a new tenant within the property but the Committee, having regard to the terms of section 27 of the 2006 Act have determined that they cannot make a Rent Relief Order because such an order could only apply to rent payable under "the tenancy in question" which the Committee determined as meaning the original tenancy which led to the original application. The Committee accordingly have determined not to make a Rent Relief Order. The Committee also noted the terms of section 28(5) of the Act which indicates that a landlord commits an offence if the landlord enters into a tenancy or occupancy arrangement in relation to a house at any time during which a repairing standard enforcement order has effect in relation to the house
9. The original tenancy in this case having been terminated the Committee also were mindful of the terms of paragraph 7 of schedule 3 to the 2006 Act. In paragraph 7 (1) of schedule 3, an application is treated as being withdrawn if the tenancy concerned has been lawfully terminated. In accordance with paragraph 7 (3) of that schedule, the Committee have,

however, despite the withdrawal of the application, decided to continue to determine the application in accordance with the provisions of that paragraph.

Right of Appeal

10. 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

11. 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 **J. Bauld** Date *18 June 2015*
James Bauld, Chairperson

N. Walker ..Witness *18 June 2015*

Witness name: *NATALIE WALKER*
Position: *Sheriff Court ADMINISTRATOR*
7 West George Street, Glasgow, G2 1BA

Certified a true copy
J. Bauld Legal Member
Private Rented Housing Panel
Date: *18 June 2015*

