



**DETERMINATION BY PRIVATE RENTED HOUSING COMMITTEE re FAILURE
TO COMPLY**

**STATEMENT OF DECISION OF THE PRIVATE RENTED HOUSING COMMITTEE
UNDER SECTION 26(1) OF THE HOUSING (SCOTLAND) ACT 2006**

In connection with

**Property at The Lodgehouse, 2A Vernonholme, Riverside Drive, Dundee
DD2 1QH
(hereinafter referred to as "the house")**

**SAMANTHA COOK, residing at The Lodgehouse, 2A Vernonholme, Riverside
Drive, Dundee DD2 1QH ("the Tenant")**

L P RIDDOCH LTD (In Administration) ("the Landlord")

Reference PRHP/RP/14/0238

BACKGROUND

1. Reference is made to the Determination of the Private Rented Housing Committee ("the Committee") dated 5 March 2015, which decided that the Landlord had failed to comply with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act ("the Act"), and to the Repairing Standard Enforcement Order ("the RSEO") dated 5 March 2015 confirming that the Landlord had failed to ensure the property meets the repairing standard in respect of Sections 13(1)(a) (b), (c) and (d) of the Act.

The RSEO required the Landlord to undertake works as is necessary for the purposes of ensuring that the property concerned meets the repairing standard and that any damage caused by the carrying out of any work in terms of the said Order is made good.

In particular the Private Rented Housing Committee required the Landlord:-

1. To instruct a reputable roofing contractor to inspect and survey and thereafter complete renovation and overhaul of the gutters and rhones of the property so as to ensure that they are in a reasonable state of repair and in proper working order.
2. To instruct a reputable contractor to inspect, survey and thereafter repair and overhaul the timber framed sash and case windows within the property so as to ensure that they are in good working order and wind and watertight.

3. To instruct a reputable contractor to inspect, survey and repair and/or replace the back door of the property leading to the garden so as to ensure that it is wind and watertight.
4. To instruct a reputable contractor to re-decorate the living room ceiling, re-plastering where required.
5. To instruct a reputable gas installation contractor to repair or replace the gas fire in the lounge of the property.
6. To arrange for and produce a Gas Safety Certificate in respect of the property.

The Private Rented Housing Committee required that the works specified in the Order must be carried out and completed within 6 weeks from the date of service of the Notice.

2. Prior to the expiry of the 6 week period correspondence was received dated 13 April 2015 from Kenneth Pattullo, Joint Administrator of the Landlord. The committee were concerned regarding the ambiguity of said correspondence and despite reference to certain works being undertaken the situation was not clear and no vouching had been produced to support any works undertaken. Similarly reference was made to certain works having been instructed but there was no detail as to the scope of the works and no indication as to when such works would be completed.

3. Given the apparent willingness of the Landlord to comply and as an alternative to re-inspecting the property and coming to an immediate conclusion that the Landlord had failed to comply with the Repairing Standard Enforcement Order the committee issued a Direction dated 23 April 2015 indicating a willingness to informally extend the time period for compliance by the Landlord by an additional 28 days to enable the Joint Administrators of the Landlord to ensure full compliance with all items numbered 1-6 within the previously issued Repairing Standard Enforcement Order.

4. At the end of the initial 6 week period for compliance the Surveyor Member of the committee, Mr David Godfrey, re-inspected the property. A copy of the Re-inspection Report was produced to the parties for comments. No comments were received from the joint administrators of the Landlord. The inspection at that time revealed that three items of work had been undertaken. The valley gutters had been cleaned out. The bottom casement of the lounge window had been replaced. Draught proofing had been fitted around the back door. The inspection also revealed that a number of other components of work as required by the Repairing Standard Enforcement Order had not been undertaken. There was still evidence of rhones remaining rusted and leaking, damp staining was evident on lower walls below leaking rhones, exterior woodwork was weathered with the exterior of some windows remaining in poor condition. The lounge ceiling repair remained undecorated. The lounge fire had not been repaired or replaced. A Gas Safety Certificate had not been produced.

5. A Gas Safety Record based upon an inspection by an engineer was subsequently produced and received on 1 May 2015. This did not raise any concerns. Importantly, however, the intention of the Committee which is evident from the terms of RSEO read in full, is that a Gas Safety Certificate ought to have been prepared and produced following implementation of the other parts of the

RSEO including the repair or replacement of the gas fire in the lounge of the property in accordance with item 5 of the RSEO.

6. A number of items of correspondence were received from the Tenant advising that no additional works had been undertaken by the Landlord in implementation of the Repairing Standard Enforcement Order. A re-inspection of the property by the Surveyor Member was arranged forthwith.

7. Given representations made on behalf of the Landlord to the effect that the works specified within the RSEO were unnecessary and that they had received advice from a Company named Meldrum Construction they were ordered by way of formal Direction issued on 29 June 2015 to produce a Written Report. They failed to respond to their obligations set out within the said Direction timeously. After the deadline for production a letter from Meldrum Construction was received and though late was considered by the committee. It is noted that reference is made to works having been undertaken, including overhauling the sash and case windows and clearing out the gutters and rhones. The committee is satisfied on the basis of their own enquiries and in particular on the basis of the re-inspection by the Surveyor Member as hereinafter described that Meldrum Construction did not carry out a sufficient overhaul of the sash and case windows and despite having cleared out the gutters and rhones have not repaired them to ensure that they are no longer leaking.

8. On 1 July 2015 the Surveyor Member of the committee, Mr David Godfrey, re-inspected the property. This is attached herewith.

9. The findings in terms of the said re-inspection carried out on 1 July 2015 disclosed that no further work had been undertaken since the re-inspection on 28 April 2015. The property remained in the same condition.

10. The Repairing Standard Enforcement Order previously issued on 5 March 2015 has not been adhered to by the Landlord. They have complied with items 3 and 6 of the Repairing Standard Enforcement Order. They have partially complied with items 1 and 2 of the Repairing Standard Enforcement Order. They have otherwise failed to comply.

DETERMINATION AND REASONS

The Committee considered the circumstances as earlier set out. The Committee unanimously decided in terms of Section 26(1) of the Act that the Landlord had failed to comply with the RSEO and directed that a notice of the failure be served on the Local Authority for which the property is situated.

The Committee did not consider that the failure to comply with the RSEO was due to a lack of necessary rights of access or otherwise. It was asserted on behalf of the Landlord that there were difficulties in accessing the property. However no specific detail was provided as to the dates upon which access was attempted, what attempts had been made to seek access, the identity of those who were seeking access or the work which could not be completed as a result.

Latterly in accordance with a Direction issued by the Committee the Tenant was ordered to produce a set of keys to the Landlord so as to avoid any continued complaints about access. She complied immediately. The conclusion of the Committee is that the Landlord has unreasonably delayed to seek implementation in full of the RSEO. The Landlord has been provided with ample opportunity to carry

out the works specified within the RSEO. No adequate explanation has been tendered by the Landlord for their failure to comply with the RSEO.

The Committee considered whether or not a variation/extension or revocation of the RSEO was appropriate but discounted these options given the Landlord had already had the benefit of an informal extension on the original timescale as a result of the Direction dated 23 April 2015. Furthermore the Landlord has taken no steps at all to furnish the Committee with any information regarding why they have not yet completed the repair work specified within the RSEO.

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.

The appropriate respondent in such appeal proceedings is the other Party to the proceedings and not the Private Rented Housing Panel or the Committee which made the decision.

Effect of Section 63

Whereas 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 28 days from the day on which the appeal is abandoned or so determined.

R. Mill

Chairperson

Date: 9 July 2015