



Statement of decision of the Private Rented Housing Committee under Section 26 (2) of the Housing (Scotland) Act 2006

prhp Ref: PRHP/RP/14/0248

Re : Property at 34D Bayhead, Stornoway, Isle of Lewis HS1 2DX ("the Property")

The Parties:-

Geraint Brown, residing sometime at 34D Bayhead, Stornoway, Isle of Lewis HS1 2DX ("the Tenant")

Arshid Mohammed, residing at 46 Morrison Avenue, Stornoway, Isle of Lewis ("the Landlord")

Decision

The Committee, having made such enquiries as it saw fit for the purposes of determining whether the Landlord has complied with the Repairing Standard Enforcement Order made by the Committee on 23 March 2015 in relation to the Property, and taking account of the evidence led by the Tenant at the hearing, determined that the Landlord had failed to comply with the Repairing Standard Enforcement Order.

Background

1. By application dated 23 October 2014, the Tenant applied to the Private Rented Housing Panel for a determination of 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 application by the Tenant stated that the Tenant considered that the Landlord had failed to comply with his duty to ensure that the house meets the repairing standard and in particular that the Landlord had failed to ensure that:-
 - (a) the house is wind and water tight and otherwise fit for human habitation,
 - (b) the installations in the house for the supply of water, gas and electricity and for sanitation, space heating and heating water are in a reasonable state of repair and in proper working order,
 - (c) any fixtures, fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order, and
 - (d) the house has satisfactory provision for detecting fires and for giving warning in the event of a fire or suspected fire.
3. By letter dated 21 November 2014, the President of the Private Rented Housing Panel intimated a decision to refer the application under Section 22 (1) of the Act to a Private Rented Housing Committee.
4. The Private Rented Housing Committee served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon both the Landlord and the Tenant.

5. The Private Rented Housing Committee inspected the Property on the morning of 26 February 2015. Following the inspection of the Property the Private Rented Housing Committee held a hearing at Bayhead Bridge Centre Trading Limited, Lamont Lane, Bayhead, Stornoway and heard from the Landlord. The Committee comprised George Clark (chairman) and Sara Hesp (surveyor member).

Following the inspection and hearing, The Committee made a Repairing Standard Enforcement Order requiring the Landlord:

(1). To instruct a suitably qualified electrician to carry out such repairs and remedial works as are required to ensure that the installation in the Property for the supply of electricity and the electrical fittings and appliances are in a reasonable state of repair and in proper working order and thereafter to provide an electrical inspection report by a suitably qualified electrician on the working order and condition of the installation in the Property for the supply of electricity, which report will also address the state of repair and working order of the electrical fittings and appliances.

(2). To carry out such repairs to the external door of the Property as are necessary, including the fitting of a door plate at the bottom, to make the Property wind and water tight.

(3). To carry out such repairs as are necessary to the washing machine in the Property and the connection to the cold water feed serving it to ensure that the washing machine is in a reasonable state of repair and in proper working order.

(4). To carry out such works as are necessary to ensure that the floor surfaces and floor coverings in the Property are in a reasonable state of repair and do not present a tripping hazard to occupiers of the Property.

(5). To carry out such works as are necessary to securely attach the wash hand basin in the shower room to the wall, and

(6). To install in the Property a satisfactory system for detecting fires and for giving warning in the event of fire or suspected fire, which system should comply with the Domestic Technical Handbook Guidance and provide at least one functioning smoke alarm in the living/sleeping/kitchen area of the Property, one functioning smoke alarm in the hallway and one heat alarm in the kitchen area, all alarms being hard-wired and interlinked.

The Private Rented Housing Committee ordered that the works specified in the Order must be carried out and completed within the period of three months from the date of service of the Notice.

6. The Repairing Standard Enforcement Order was served on the Landlord on 23 March 2015.
7. The Committee reinspected the Property on the morning of 22 July 2015. The Landlord was present during the reinspection. The Tenant, having vacated the Property was not present or represented at the reinspection or at the subsequent hearing. Following upon the reinspection, the Committee held a hearing at Bayhead Bridge Centre Trading Limited, Lamont Lane, Bayhead, Stornoway. The Landlord was present at the hearing and was accompanied and represented by Mr David Harris of Island Advocacy CIC.
8. The weather at the time of the inspection was showery and blustery.
9. The Landlord told the Committee that he accepted that the Property was unfit for human habitation. Mr Harris had had discussions with the owner of the flat above about work that was required to the guttering and internal sewerage arrangements, but the owner of the flat above had taken no action to remedy the problems, which included sewage leaking from the toilet of the flat above into the ceiling of the Property. Mr Harris told the

Committee that the sewage problem appeared to have been resolved, but the issues with the guttering had not been resolved. A temporary repair had been carried out to the lead mains water pipe outside the kitchen window of the Property, but the permanent repair work had not been done.

10. The Landlord told the Committee that, before the Tenant moved in, the Property had been electrically tested, water tested and damp tested, but he had no written certification relating to these matters. There had been the problems emanating from the upstairs flat, but the Tenant had been responsible for the damage within the Property.
11. The Landlord told the Committee that he did not have the money to carry out all the necessary repair work and re-let the Property. Accordingly, he had placed the Property on the market with Western Isles Property Centre as a development opportunity and he intended to surrender his certificate of registration as a Landlord.

Summary of the issues

12. The issues to be determined were whether the Landlord had complied with the Repairing Standard Enforcement Order and, if not, whether it was appropriate for the Committee to make a Rent Relief Order under Section 27 of the Act.

Findings of fact

13. The Committee finds the following facts to be established:-
 - The Property is a ground floor property, comprising one habitable room and a bathroom, within a block of traditional construction more than 100 years old, with rendered walls under a slate roof.
 - The Property is in the same condition as it was when the Committee first inspected it on 26 February 2015. Two files of photographs are attached to and form part of this Decision. The first set was taken at the first inspection on 26 February 2015 and the second set was taken during the reinspection on 22 July 2015.
 - None of the works required by the Repairing Standard Enforcement Order have been carried out.
 - There is no evidence of a problem of penetrating or rising damp within the Property.
 - There is no evidence of ingress of sewage or water penetration from the flat above.

Reasons for the decision

14. The Landlord has done nothing to implement the works required by the Repairing Standard Enforcement Order. He told the Committee that he has no intention of re-letting the Property and that it is currently on the market, but the Committee concluded that it had no option other than to serve notice on the local authority of the failure to comply with the Repairing Standard Enforcement Order. The Tenant has vacated the Property and the Committee decided not to make a Rent Relief Order.

Decision

15. The Committee accordingly determined that the Landlord had failed to comply with the Repairing Standard Enforcement Order issued on and directed that Notice of Failure should be served on Western Isles Council
16. The decision of the Committee was unanimous.

Right of Appeal

17. 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

18. 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 **G. Clark** Date... 22 July 2015
Chairperson