



Rent Relief Order
Ordered by the Private Rented Housing Committee
Ref prhp/rp/15/0012

In respect of an application lodged in terms of Section 22(1) of the Housing (Scotland) Act 2006 by James Smith residing at 1B, Hozier Street, Coatbridge ML5 4LB ("the Tenant") against PCM Property Developments Ltd, having a place of business at 36, Wood Street, Coatbridge ML5 1LY ("the Landlords"), together referred to as "the parties"

Re: Property: 1B, Hozier Street, Coatbridge ML5 4LB registered in the Land Register of Scotland under Title Number LAN19855("the Property")

Committee Members

Karen Moore (Chairperson)

Charles Reid Thomas (Surveyor Member)

Colin Campbell (Housing Member)

NOTICE TO:

PCM Property Developments Ltd, having a place of business at 36, Wood Street, Coatbridge ML5 1LY ("the Landlords")

In terms of their decision dated 11 May 2016, the Private Rented Housing Committee ("the Committee") determined in terms of Section 26(1) of the Housing (Scotland) Act 2006 ("the Act") that the Landlords have failed to comply with the Repairing Standard Enforcement Order in relation to the Property made by the Committee.

The Committee determined to make a Rent Relief Order in terms of Section 27 of the said Act reducing the rent payable under the tenancy for the Property by an amount of 75% of the monthly rent (being a reduction of £225.00 per calendar month of the current monthly rent of £300.00, thus reducing the current monthly rent to £75.00) which would, but for the order, be payable. The rent reduction will take effect 28 days after the last date on which the decision to make the Rent Relief Order may be appealed under Section 64 of the said Act.

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. Where the appeal is abandoned or finally determined by confirming the decision, the Rent Relief Order will take effect 28 days after the date on which the appeal is abandoned or the decision is confirmed.

Signed K. MOORE

Karen Moore, Chairperson

Date 11 May 2016



Determination by Private Rented Housing Committee

Statement of Decision of the Private Rented Housing Committee issued under Section 26(1) of the Housing (Scotland) Act 2006

Ref prhp/rp/15/0012

In respect of an application lodged in terms of Section 22(1) of the Housing (Scotland) Act 2006 by James Smith residing at 1B, Hozier Street, Coatbridge ML5 4LB ("the Tenant") against PCM Property Developments Ltd, having a place of business at 36, Wood Street, Coatbridge ML5 1LY ("the Landlords"), together referred to as "the parties"

Re: Property: 1B, Hozier Street, Coatbridge ML5 4LB registered in the Land Register of Scotland under Title Number LAN19855("the Property")

Committee Members

Karen Moore (Chairperson)

Charles Reid Thomas (Surveyor Member)

Colin Campbell (Housing Member)

Decision

The Committee, having made such enquiries as they saw fit for the purposes of determining whether the Landlords have complied with the Repairing Standard Enforcement Order made by it, determined that the Landlords have failed to comply with the Repairing Standard Enforcement Order in terms of Section 26(1) of the Act and that a notice of this failure should be served on the local authority in whose area the property is situated

Background

1. By application dated 11 January 2015 and signed by the Tenant ("the Application"), the Tenant applied to the Private Rented Housing Panel for a determination that the Landlords had failed to comply with the duty imposed on them by Section 14 (1) (b) of

the Housing (Scotland) Act 2006 in respect that the Property does not meet the Repairing Standard in respect of Section 13 (1) of the Act.

2. Following an Inspection and Hearing on 21 April 2015, the Committee determined that the Landlord had failed to comply with the duty imposed on them by Section 14 (1) (b) of the Housing (Scotland) Act 2006 in respect that the Property did not meet the Repairing Standard in respect of Section 13 (1) of the Act and imposed a Repairing Standard Enforcement Order dated 29 April 2015 ("the RSEO"). The Committee, on 30 July 2015, varied the time for completion of the works required by the RSEO.
3. The RSEO as varied is as follows:-

The Landlords in respect of the roof of the Property must:-

1. *no later than 14 August 2015 confirm to the Committee in writing (i) that the aftermentioned Roof Inspection has been instructed and (ii) the date on which the Roof Inspection will take place, which date must be no later than 4 September 2015;*
2. *ensure that a fully documented inspection ("the Roof Inspection") and report on the roof of the Property ("the Roof Inspection Report") including the chimneys and chimney heads, the ridges, skews, flashings, gutters and the supporting beams and sub-structure, the purpose of which report is to recommend works to the whole roof, including replacement if necessary, to ensure that the roof is made wind and watertight and free of rot is carried out by a competent, reputable roofing contractor, being a roofing contractor capable of providing a 30 year guarantee;*
3. *ensure that no later than 11 September 2015 a copy of the Roof Inspection Report is submitted to the Committee;*
4. *no later than 4 October 2015 commence the works as recommended by the Roof Inspection Report and confirm in writing to the Committee the date on which the works will commence;*
5. *no later than 4 January 2016, complete the works as recommended by the Roof Inspection Report and confirm in writing to the Committee that the works have been completed;*

The Landlords in respect of the structure of the Property must:-

6. *no later than 14 August 2015 confirm to the Committee in writing (i) that the Building Inspection has been instructed and (ii) the date on which the inspection will take place, which date must be no later than 4 September 2015;*
7. *ensure that a fully documented inspection ("the Building Inspection") and report on the structure of the Property ("the Building Inspection Report") including the external walls, including the window surrounds, and internal walls, the purpose of which report is to recommend works to the external structure to ensure that the Property is made wind and watertight and is structurally stable and to recommend works to the internal walls to ensure that these are free of dampness is carried out by a competent, reputable building contractor, being a building contractor capable of providing a defects liability guarantee;*
8. *ensure that no later than 11 September 2015 a copy of the Building Inspection Report is submitted to the Committee;*
9. *no later than 4 October 2015 commence the works as recommended by the Building Inspection Report and confirm in writing to the Committee the date on which the works will commence;*
10. *no later than 4 January 2016, complete the works as recommended by the Building Inspection Report and confirm in writing to the Committee that the works have been completed;*

11. *on the last day of each calendar month from the 31 August 2015 until the works ordered above are completed, submit a written report on the progress of the said works ("the Monthly Report") to provide the Committee with detail of the works completed, the works in progress and the progress of any grant application made by the Landlords to North Lanarkshire Council, including copies of all correspondence between the Landlords and North Lanarkshire Council during that month in respect of grant assistance. If works are delayed, the Monthly Report must provide the Committee with an explanation for the delay;*
 12. *no later than 5 February 2016, make good all internal decoration in the Property affected as a result of the works.*
4. The Surveyor Member re-inspected the Property on 14 January 2016 and found that the works required by the RSEO had not been completed. The re-inspection report was issued to the parties, following which the Landlords requested that the Committee hold a Hearing. A Hearing on the RSEO was fixed for 20 April 2016 at 10.30 a.m.
 5. By email dated 30 March 2016, the Landlords advised the Committee that funding had been secured and that the roof works required by the RSEO had commenced. The Landlords requested that the Hearing fixed for on 20 April 2016 be cancelled. The Committee treated this email as an application on behalf of the Landlords for an adjournment of the Hearing and Inspection in terms of Regulation 21 of The Private Rented Housing Panel (Applications and Determinations) (Scotland) Regulations 2007 ("the Regulations"). The Committee, having given due consideration to this application, refused the application.

Hearing

6. The Hearing took place on 20 April 2016 at 10.30am at Airdrie Business Centre, Airdrie. Neither the Tenant nor the Landlords attended, the Tenant having advised the Committee earlier that he would not attend and Mrs. Jill Murtagh of the Landlords having intimated on the morning of the Hearing that she was unable to attend.
7. The Committee gave consideration to the RSEO as varied, the written representations made by the Tenant, the written representations made on behalf of the Landlords, the Croall and Watson Roofing Limited roof report lodged by the Landlords and the Surveyor Member's Re-inspection Report.
8. With regard to the most recent written representations made by the Tenant, the Committee noted that only recently had scaffolding been erected and work begun on the roof. However, the Tenant advised that no other elements of the RSEO had been attended to and the Landlords had not made contact with him
9. With regard to the most recent written representations made by Mrs. Jill Murtagh on behalf of the Landlords, the Committee noted that Mrs. Murtagh also stated that work had now begun on the roof. From Mrs. Murtagh's earlier emails on behalf of the Landlords' to the Committee, the Committee is aware that the Landlords cite lack of funds and common ownership of the roof as reasons for not complying with the RSEO. The HOHP, on the instruction of the Committee, however, had written to the Landlords

making the Landlords aware that they had entitlement in terms of the Tenements (Scotland) Act 2004 to carry out the common works themselves and seek redress from co-owners. It appeared to the Committee that the Landlords had ignored this point. The Committee noted that Mrs. Murtagh made no comment in respect of the other elements of the RSEO in any of her written representations.

Findings in respect of compliance with the RSEO

10. The Committee noted that on 28 August 2105, the Landlords submitted a report by Croall and Watson Roofing Limited, Coatbridge, which report does not fully comply with part 2 of the RSEO as narrated above as it does not refer to a 30 year guarantee. Accordingly, the Committee found that the Landlords have not complied with part 2 of the RSEO.
11. The Committee noted that the roof works were not instructed and completed within the time limits set out in parts of the RSEO and that the Landlords had not notified the Committee as required by those parts of the RSEO. The Committee accepted that although roof works are underway, by their own admission, the Landlords' position is that the roof works are not yet complete. Accordingly, the Committee found that the Landlords have not complied with parts 4 and 5 of the RSEO.
12. The Committee noted that no comment was made by the Landlords in respect of parts 6, 7, 8, 9, 10 and 12 of the RSEO and no evidence was submitted in respect of any works undertaken to comply with these parts of the RSEO. Further, the Surveyor Member's Re-inspection Report noted that these works had not been carried out. Accordingly, the Committee determined that the Landlords had failed to comply with parts 6, 7, 8, 9, 10 and 12 of the RSEO.
13. With regard to part 11 of the RSEO, the Committee noted that whilst Mrs Murtagh on behalf of the Landlords had sent emails in respect of the progress of a grant funding application to North Lanarkshire Council, these emails had not fully complied with the terms of part 11 of the RSEO. Accordingly, the Committee determined that the Landlords had failed to comply with part 11 of the RSEO.
14. The Committee, having made such enquiries as they saw fit for the purposes of determining whether the Landlords have complied with the Repairing Standard Enforcement Order made by it, determined that the Landlords have failed to comply with the Repairing Standard Enforcement Order in terms of Section 26(1) of the Act and that a notice of this failure should be served on the local authority in whose area the property is situated. The Committee, having found that Landlords had failed to comply with the RSEO, proceeded to consider whether to make a Rent Relief Order in terms of Section 27 of the Act.
15. The Committee took into consideration the condition of the Property at the Inspection and Re-inspection and both the Tenant's and the Landlords' written representations. The Committee took into account the Landlords' position in respect of lack of funds and

lack of control of the whole of the common parts of the Property. However, the Committee's view was that it was within the Landlords' power as a commercial organisation to arrange financing for the works required by the RSEO. Further, elements of the RSEO relate to parts of the Property which are solely within the Landlords' ownership and no attempt had been made by the Landlords' to address these elements of the RSEO. The Committee is mindful that it is not practical for the Landlords to carry out some of the works required by the RSEO until the more significant structural works are complete. Bearing this in mind, the Committee maintained the view that the Landlords had made insufficient attempt to comply with both the original RSEO and the RSEO as varied. Accordingly, the Committee determined to make a Rent Relief Order.

16. The Committee was most concerned that the Property was not wind and watertight and that dampness in the Property had not been addressed. The Committee was concerned at the impact that these matters are having on the health and safety of the Tenant and on the Tenant's right to have full enjoyment of the Property.
17. Accordingly, the Committee determined that such Rent Relief Order should be made given the Landlord's failure to comply with the Repairing Standard Enforcement Order without reasonable excuse. The Committee then considered the amount by which the rent should be reduced.
18. In assessing the amount of the Rent Relief Order, the Committee took into account the condition of the Property at the Inspection and Re-inspection. The Committee also took into account one of the Landlords' emails which stated that the monthly rent of £300.00 for the Property was less than the average monthly rent for similar properties in the area. The Landlords did not provide evidence of this assertion but the Committee using its own professional knowledge accepted that a monthly rent of £300.00 is likely to be moderate rent for the Property. Accordingly, the Committee determined that a Rent Relief Order of 75%, being £225.00, is equitable. The Committee considered that the Rent Relief Order should take effect from the date 28 days after the last date on which the Rent Relief Order decision may be appealed under Section 64 of the Act.
19. The Committee then proceeded to make a Rent Relief Order in terms of Section 27 of the Act.

20. The decision of the Committee is unanimous.

Right of Appeal

21. The parties' attention is drawn to the terms of Section 64 (4) of the Act regarding their right to appeal and the time limit for doing so. It provides that a landlord or tenant aggrieved by a decision of a private rented housing committee may appeal to the Sheriff within a period of 21 days of being notified of the decision.
22. Where an appeal is made, the effect of the appeal is that the determination of the committee 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 K. MOORE

Karen Moore, Chairperson

Date 11 May 2016