



## **STATEMENT OF REASONS**

**For a Decision issued by the Private Rented Housing Committee under Section 26 and Paragraph 6(2)(b) of Schedule 2 of the Housing (Scotland) Act 2006**

### **THE PROPERTY**

**22 Kemp Court, Hamilton, Lanarkshire ML3 6QF, registered in the Land Register for Scotland under title number LAN99404 (hereinafter referred to as "the property")**

### **The Parties**

**Ms Samantha Bolton and Bruce Pringle, residing at the Property - (hereinafter referred to as "the applicants")**

**Note: The Tenancy under which the application was made, having been lawfully terminated, and the Committee having determined to continue with the determination of the application in terms of Minute of Continuation dated 4 February 2016 under Schedule 2 Paragraph 7(3) of the Act there was no Tenant**

**and**

**Kenneth Arthur, residing sometime at flat 6, 201 Quarry Street, Hamilton and also of Apartment 4, 7 Riverside view, Cleyton le Moors, Accrington BB5 5YN per Igloo Estate Agents, 2 Gateside Street, Hamilton ML3 7JG.**

**(hereinafter referred to as "the Landlord")**

**PRHP Reference: PRHP/RP/15/0346**

**Committee Members – David Preston (chairperson) and Andrew Taylor (Surveyor Member)**

## **Decision**

The Committee, having made such enquiries as are fit for the purposes of determining whether the landlord had complied with the terms of the Repairing Standard Enforcement Order (hereinafter referred to as the "RSEO") dated 25 February 2016 in terms of section 26(1) of the Housing (Scotland) Act 2006 (hereinafter referred to as "the Act") and taking account of the written representations by the landlord, determined that the landlord had failed to carry out repairs specified in the RSEO.

## **Background**

1. Reference is made to: the Determination of the Committee dated 25 February 2016 which decided that the landlord had failed to comply with the duty imposed by section 4(1)(b) of the Act; and the RSEO issued by the Committee on that date which required the landlord to carry out the works specified therein. The said works were to be carried out and completed within one month from the date of service of the RSEO which was effected on 29 February 2016.
2. Following the expiry of the period within which the landlord had been required to complete the work, a re-inspection of the property was carried out by the surveyor member of the Committee on 13 April 2016 and a Re-inspection Report dated 14 April 2016, which is referred to for its terms, was issued on 28 April 2016.
3. The landlord's representative returned a completed response form dated 9 May 2016 which advised that the door entry system was covered by the factoring company and that they had reported the issue to the factor and were awaiting resolution for further detail. It also advised that a follow-up call had been made on 9 May 2016. The response form also indicated that the landlord's representative was in agreement that the Committee could make a decision without an oral hearing.
4. The Committee considered the response from the landlord representative in the light of the terms of the RSEO and determined that the RSEO was specific in its terms requiring the landlord to liaise with the property factors to ensure that such repairs as are necessary were carried out to the door entry system to ensure two-way communications between the flat handset and the entry panel and that this must be completed within one month from the date of service of the order.
5. The Committee did not consider that sufficient effort had been made by or on behalf of the landlord to ensure that the works specified in the RSEO was completed within

the time limit provided. It considered that further efforts could have been made to put pressure on the property factors to effect the repairs. It was insufficient for the landlord's representative to have referred the matter to the factors and then followed up with one telephone call after the expiry of the time limit provided and over a week after the receipt of a copy of the Re-inspection Report. The Committee further noted that no application had been received from or on behalf of the landlord for a variation of the RSEO to extend the time limit within which the work was required to be completed.

6. Accordingly the Committee decided that the landlord had failed to comply with the terms of the RSEO and determined to issue a Notice of Failure.
7. The Committee further considered in terms of section 26(2)(b) of the Act whether to make a rent relief order. However as the tenancy under which the application had been made had been terminated the Committee was unable to do so. However the Committee was of the view that, had it been able to make such an order, a restriction of 10% of the rent would have been appropriate.

### **Right of Appeal**

A landlord or tenant has the right to appeal this decision to the Sheriff by summary application within 21 days of being notified of that decision.

### **Effect of Appeal**

In terms of section 63 of the Act, where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by confirming the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.

17-May-16

**D Preston**

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CHAIRMAN

Signed by: DAVID MICHAEL PRESTON