



**PRIVATE RENTED HOUSING COMMITTEE**

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

**In connection with**

**Property**

**PRHP Ref: PRHP/G63/99/12**

**PROPERTY**

**The Point Cottage, Balmaha, Glasgow G63 0JQ registered in the Land Register  
for Scotland title number STG65309 ("the Property")**

**PARTIES**

**Mr James & Mrs Nancy Farrell, residing formerly at the property.  
("the Tenants")**

**Ms Hayley MacFarlane residing at 24 (1/3) Thornwood Avenue, Glasgow G11  
7TW ("the Landlord")**

**Decision**

**The Committee, having made such enquiries as is fit for the purposes of  
determining whether the Landlord has complied with the terms of the  
Repairing Standard Enforcement Order (hereinafter referred to as "RSEO")  
dated 10 October 2012 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 the repairs specified in the RSEO.**

**Background**

1. Reference is made to the Decision of the Committee dated 10 October 2012 which decided that the Landlord had failed to comply with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 ("the Act"), and to the RSEO issued by the Committee which required the Landlord to carry out works as specified therein. The said works were to be carried out and completed within 20 weeks from the date of service of the RSEO, which was effected on 11 October 2012
2. Following the expiry of the period within which the landlord had been required to complete the work, the surveyor member of the Committee carried out re-inspection on 7 March 2013. The Tenants were present during the re-inspection. The Landlord was not present or represented.
3. The Surveyor member noted that none of the works specified in the RSEO had been attended to.
4. In arriving at its decision the Committee had regard to the correspondence between the parties being: a letter from the Landlord to the Tenant dated 20 November 2012, an undated response from the Tenants and a further letter from the Landlord to the Tenants dated 6 December 2012. In addition, the Committee had before it: the Landlord's Response Form dated 25 February 2013 and a letter from the Landlord dated 4 April 2013.
5. It had been clear to the Committee from the outset of its consideration of this application that there were many personal issues between the parties, but the Committee was only concerned with the condition of the property.
6. Prior to the Inspection and Hearing on 2 October 2012 the Committee had been provided with a preliminary report from the Landlord's contractors D.R. Dolby of Dolby & Sons which detailed works which were considered to be necessary to enable the property to comply with the repairing standard. It was clear to the Committee that the property would probably require to be vacated during the work which would entail the relocation of the Tenants and it was for this reason that a period of 20 weeks was considered to be realistic.
7. The Committee noted that the Landlord had intimated to the Tenants by letter of 20 November 2012 that she intended to commence work on 17 December 2012 and require that all furniture and personal belongings would be removed from the property by 16 December 2012 to allow work to commence. The Tenants in their undated response sought two months notice to decant as well as assistance in obtaining alternative accommodation.
8. During the re-inspection, the surveyor member was advised by the Tenants that they were removing from the property on the following day (8 March 2013) as they had obtained alternative accommodation. The Committee understand that the Tenant did so remove and this was confirmed in the Landlords letter dated 4 April 2013.
9. The Committee was satisfied that prior to the Tenants' removal, the Landlord had been unable to comply with the terms of the RSEO since she had been unable to gain access to the property to allow the work to be carried out. However following the removal of the Tenants on 8 March 2013 the Landlord had such rights of access.

10. In her letter of 4 April 2013 the Landlord implied that she had been unable to view the interior of the house prior to the removal of the Tenants and that, following on her ability to view the interior of the house she had decided to remove it from the rented accommodation list and herself from the landlord registration list. The Committee noted that the Landlord's contractor had gained access to the property and had produced a preliminary report as to its condition and that the Landlord had opportunities to inspect the interior of the property at the time of both the inspection by the Committee and the re-inspection by the surveyor member.
11. Accordingly the Committee was of the view that following the removal of the Tenants the Landlord had ample opportunity to arrange for the necessary work to be carried out and accordingly considered that the Landlord has failed to comply with the terms of the RSEO.
12. The Committee noted that in terms of the Act it may revoke the RSEO where it considers that the work required by the order is no longer necessary. As none of the works specified in the RSEO, which was stated by the Landlord's contractor and was determined by the Committee to be necessary, had been carried out, the Committee could not determine that the work was no longer necessary and was therefore unable to revoke the order.
13. The Committee noted that the Landlord had stated an intention not to rent the property but considered that in terms of the Act the Committee is required to ensure that the Landlord complies with her duty to maintain the property to the repairing standard as defined in the Act and whilst the Landlord may have no current intention to lease out the property, the Committee has no means of ensuring that the property does not re-enter the rental market without the necessary works having been completed unless the RSEO remains in place.
14. The Committee was also mindful that whilst the order did remain in place it would only become effective if the property were to re-enter the rental market.

### **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.**

### **Effect of section 63**

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.

D Preston

Chairman

Date...19-4-13..