



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

In connection with

Property at 5 Burnfoot Avenue, Barrassie, Troon KA10 6RF
(hereinafter referred to as "the house")

Miss. Pamela McRavey, residing at the house ("the Tenant")

Mr. Mahar Mohammed Nasir, 2 Langhau Avenue, Glasgow G53 7RW whose agents are Messrs Waddell and Mackintosh, Solicitors, Troon KA10 6AB ("the Landlord")

Reference PRHP/RP/15 /0147

BACKGROUND

1. Reference is made to the Determination of the Private Rented Housing Committee ("the Committee") dated 15 July 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 21 July 2015 which confirmed that the Landlord had failed to ensure that the house is wind and watertight and in all other respects reasonably fit for human habitation; the structure and exterior of the house (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order; 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; 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 the house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.

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

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

- (a) *To arrange for an inspection of all aspects of the electrical wiring at the house including an inspection of the fittings and appliances provided by the Landlord, said inspection is to be carried out by a SELECT or NICEIC Registered Electrical Engineer; and following that inspection, an electrical inspection report requires to be prepared and submitted to the Homeowner Housing Committee; If works are identified as required in terms of that report, then these works require to be undertaken and certified as satisfactorily completed by the Registered Engineer and the Landlord is required to provide certification to confirm this from a SELECT or NICEIC Registered Engineer acceptable to the Committee.*
 - (b) *To identify the source of dampness and to rectify the cause to ensure that the house is wind and watertight; and to redecorate the affected area.*
 - (c) *To replace the sill at the kitchen door with treated timber or a suitably weatherproofed material.*
 - (d) *To repair and, as required replace, the quarry tiling at the kitchen exit step.*
 - (e) *To remove and replace the garage which is at risk of collapse and is beyond economic repair. The replacement structure should be capable of housing a car. To remove the asbestos door of the garage using the services of a competent contractor who is licensed under the Waste Management Regulations who will dispose of the door and a receipt to confirm this is to be submitted to the Committee.*
 - (f) *To repair the fencing and the gate opening to ensure that it is constructed to a uniform style of uniform materials and finish and to ensure that it is in a reasonable state of repair and proper working order.*
 - (g) *To employ a plumber to sink the rodding eye into the ground so that it is flush with the garden ground level.*
 - (h) *To reinstate the front and side boundary walls.*
 - (i) *To repair the windows as required to ensure that the windows are in a reasonable state of repair and in proper working order and draught free and that keys are provided to all windows with a locking mechanism. The hall window upstairs being used as a fire exit must be capable of being safely opened and closed.*
 - (j) *To repair the skylight velux window so that it is in a reasonable state of repair and in proper working order.*
 - (k) *To repair the front door to ensure it is wind and watertight and draught free.*
 - (l) *To produce an up to date and satisfactory Gas Safe certificate for the gas installation, the boiler and central heating system and any gas appliances provided by the Landlord.*
 - (m) *To install fire detection devices which comply with the current guidance issued by Scottish Ministers for the provision for such devices. A copy of the Statutory Guidance referred to is attached to this Order.*
- (Hereinafter the works detailed at (a) to (m) are collectively known as "the works").

The Private Rented Housing Committee ordered that the works specified in the RSEO must be carried out and completed within the period of two months from the date of service of this Notice. Notice was served on the Landlord and his representative, Messrs. Waddell and Mackintosh, Solicitors, Troon. The representative acknowledged receipt of the Notice by letter dated 27 July 2015. Therefore, the said works were to be carried out and completed by 27 September 2015.

2. Following expiry of the timescale for carrying out the works, intimation was given to the Landlord and the Landlord's representative that an inspection of the house would take place on 2 October 2015 at 10.30. The Landlord indicated by e-mail dated 16 September 2015 that the Tenant had left the house 3 weeks before and indicated that no one would be at the house for the inspection. Thereafter, notice was served on the Landlord and Landlord's representative by sheriff officers that access would be required at the date and time specified for the inspection by the surveyor member and if such access was not granted a warrant may be sought.

3. On 2 October 2015 Mr. Mike Links, Surveyor Member of the Committee, attended at the house but his inspection was confined to the exterior of the house as the Landlord was not present to provide access to the interior. A report on his findings was submitted to the Committee. The report indicated that none of the external works detailed at (a), (c), (d), (e), (f), (g), and (h) within the RSEO had been carried out. A letter with a copy of the inspection report was sent to the Landlord by recorded delivery and was signed for on 13 October 2015, a copy of the letter and report was also sent to the Landlord's representative. It was highlighted in the letter that the Committee may draw an inference from the lack of access and the absence of works to the outside of the house that no works to comply with the RSEO had taken place internally. The Landlord was given an opportunity to challenge this inference and produce evidence of internal works and make representations on the report. It was explained that if no such evidence was produced, the Committee were likely to draw an inference that the internal works had not been completed. The representations and evidence had to be provided to the panel by 23 October 2015.

4. Beyond an acknowledgement of the letter by the Landlord's representative, no response was received from the Landlord.

5. The Committee comprised Mrs. Aileen Devanny, Chairperson, Mr. Mike Links, and Surveyor Member.

DETERMINATION AND REASONS

The Committee considered the evidence and unanimously decided in terms of Section 26(1) of the Act that no works in terms of the RSEO had been completed and, consequently, the Landlord had failed to comply with the RSEO and directed that a notice of the failure be served on the Local Authority for the area in which the house is situated.

The Committee had considered whether or not a variation or revocation of the RSEO was appropriate but discounted these options given the evidence before them that the Landlord had already had sufficient time to complete the works; and the complete absence of any evidence to support that any works detailed within the RSEO had been completed. The house is empty but the works are still necessary. The RSEO relates to items of required works to the house which involve issues of safety for future tenants and occupants of the house.

Since the tenant has left the house, a rent relief order was not appropriate.

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

A DEVANNY

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Chairperson,
30th October 2015