



**DETERMINATION BY PRIVATE RENTED HOUSING COMMITTEE re RENT  
RELIEF ORDER**

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

**In connection with**

**Property at 441 Calder Road, Edinburgh EH11 4AN  
(hereinafter referred to as "the house")**

**MARY SLIGHT, residing at 441 Calder Road, Edinburgh EH11 4AN ("the  
Tenant")**

**FIRST RENTED HOUSING GROUP LIMITED, a Company incorporated under  
the Companies Acts and having its registered office at Valley View, Glebe  
Estate, Studland, Dorset BH19 3AS ("the Landlord")**

**Reference PRHP/RP/15/0095**

**Committee - Richard Mill (Chairman) and David Godfrey (Surveyor Member)**

**Title Number: MID114589**

**FACTUAL BACKGROUND**

The committee makes reference to the facts, circumstances and their decision and reasons in the corresponding determination by the committee of even date regarding the Landlord's failure to comply with the Repairing Standard Enforcement Order dated 17 June 2015. Said determination is referred to for its terms and held to be incorporated herein for the sake of brevity. The committee unanimously decided that in terms of Section 26(1) of the Act that the Landlord has failed to comply with the Repairing Standard Enforcement Order and the committee has directed that a Notice of Failure be served on the Local Authority in which the house is situated. The committee does not consider that the failure to comply with the Repairing Standard Enforcement Order is due to a lack of necessary rights of access or otherwise. Ample opportunity has been provided to the Landlord to carry out the works. The Landlord's actions throughout this process and prior to it have been dilatory.

**DETERMINATION AND REASONS**

Having determined that the Landlord has failed to comply with the Repairing Standard Enforcement Order, the committee has proceeded to consider if a reduction in rent is appropriate and, if so, the appropriate level of reduction. The committee has considered all correspondence received from both parties to date including their submissions on the re inspection report by the surveyor member of the committee. Given the delays in carrying out the works in the Repairing Standard Enforcement Order, the inconvenience and disruption to the Tenant of ongoing

works and, the impact of the defects of the Tenant's enjoyment of the property, the committee considers that a reduction in the rental due for the property by 25% is appropriate in the circumstances. In particular the windows of the property do not meet the Repairing Standard. It is the beginning of November, namely the onset of the winter months. The committee makes a Rent Relief Order in terms of Section 27 of the Act.

## **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.**

**The appropriate respondent in such appeal proceedings is the other Party to the proceedings and not the Private Rented Housing Panel or the Committee which made the decision.**

## **Effect of Section 63**

Whereas 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.

In witness whereof these presents typewritten on this and the preceding page(s) are executed by Richard Mill, Solicitor, chairperson of the Private Rented Housing Committee at Edinburgh on the Sixteenth day of November Two Thousand and Fifteen before this witness:-

M MURRAY

R MILL

witness

\_\_\_\_\_  
chairman

Margaret Johnstone Murray  
21 Stafford Street  
Edinburgh  
EH3 7BJ

Legal Secretary



**DETERMINATION BY PRIVATE RENTED HOUSING COMMITTEE re FAILURE  
TO COMPLY**

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

**In connection with**

**Property at 441 Calder Road, Edinburgh EH11 4AN  
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**Reference PRHP/RP/15/0095**

**Committee - Richard Mill (Chairman) and David Godfrey (Surveyor Member)**

**Title Number: MID114589**

**BACKGROUND**

1. Reference is made to the Determination of the Private Rented Housing Committee ("the Committee") dated 17 June 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 17 June 2015 confirming that the Landlord had failed to ensure the property meets the repairing standard in respect of Sections 13(1)(a) (b), (c) and (d) of the Act.

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

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

1. To instruct a reputable contractor to inspect, survey and if necessary repair the chimney stack and pots on the north elevation of the roof of the property.

2. To instruct a reputable contractor to inspect, survey and thereafter complete renovation and overhaul of the gutters and rhones of the property so as to ensure that they are in a reasonable state of repair, in property working order and do not leak.
3. To replace four windows in the property being the east most window in the living room, the window in the west most bedroom, the window in the bathroom and the window in the scullery.
4. To instruct a reputable contractor to inspect, survey and if possible repair and overhaul the remainder of the windows to include ventilation so as to ensure that they are in good working order and wind and watertight; and if repair work is not to be possible nor economical to replace the remainder of the windows in the property.
5. To instruct a reputable contractor to inspect, survey and to improve the ventilation in the property to eradicate the excessive condensation, such steps to include the possible installation of further electrical extractor fans in the kitchen and bathroom, and to repair, replace or create wall vents.

The Private Rented Housing Committee required that the works specified in the Order must be carried out and completed within 8 weeks from the date of service of the Notice.

2. Correspondence was received on behalf of the Landlord dated 18 August 2015. This made reference to certain works having been undertaken and difficulties which had arisen in respect of completion of the works. It did appear to the Committee that the Landlord was seeking to actively progress matters despite the lengthy period over which no action had been taken by them in response to the Tenant's complaints.
3. Given the apparent willingness of the Landlord to comply and as an alternative to re-inspecting the property and coming to an immediate conclusion that the Landlord had failed to comply with the Repairing Standard Enforcement Order the committee issued a Determination Varying the Repairing Standard Enforcement Order already issued. Said Variation is dated 25 August 2015. The Committee expressed therein their concern regarding the dilatory manner in which the Landlord had approached matters and provided them with a strict period of 4 further weeks to complete the works required.
4. A re-inspection of the property was subsequently arranged and took place on 19 October 2015. The Re-inspection Report was issued to parties and comments were invited. Comments were subsequently received from the Tenant dated 29 October 2015 and on behalf of the Landlord dated 30 October 2015. Further correspondence has been received dated 7 November 2015 from the Tenant and 11 November from the landlord. Other e mails have also been received. The committee have considered all correspondence.
5. It was acknowledged that some works have been undertaken, namely the rainwater fittings have been overhauled/replaced. It was noted however that there

appeared to be a number of outstanding issues connected thereto, namely that there remain a number of small leaks particularly at joints in the rhones. Additionally the windows have still to be replaced and no steps have been taken to improve the ventilation in the property.

6. The Repairing Standard Enforcement Order previously issued on 17 June 2015 and as Varied on 25 August 2015, has not been adhered to by the Landlord. They have only partially complied with this. They have failed to provide any good reason as to why they have failed.

## **DETERMINATION AND REASONS**

The Committee considered the circumstances as earlier set out. The Committee unanimously decided in terms of Section 26(1) of the Act that the Landlord had failed to comply with the RSEO and directed that a notice of the failure be served on the Local Authority for which the property is situated.

The Committee did not consider that the failure to comply with the RSEO was due to a lack of necessary rights of access or otherwise. It was asserted on behalf of the Landlord that they have a large portfolio of properties and it is necessary to obtain the approval for works to be undertaken in a set process. It was similarly acknowledged on behalf of the Landlord that there has been delay.

In accordance with the earlier Decision of the Committee dated 17 June 2015 at the time of the issue of the Repairing Standard Enforcement Order, it is recorded that the Tenant has been complaining to the Landlord's agents in respect of her complaints for a period of around 2 years. The windows were surveyed on behalf of the Landlord as long ago as February 2014. The Landlord and their agents failed to engage in the earlier parts of this process, including having failed to engage in the inspection and the Hearing which took place on 12 June 2015.

The Committee has no confidence that the Landlord and their agents fully appreciate the serious nature of the failure to ensure that the property meets the Repairing Standard and to ensure that there is full compliance with the Repairing Standard Enforcement Order previously issued by the Committee. They have failed to demonstrate a willingness to expedite matters set against the background outlined. No adequate explanation has been tendered by the Landlord for the failure to comply with the Repairing Standard Enforcement Order.

The Committee considered whether or not a variation/extension or revocation of the Repairing Standard Enforcement Order was appropriate but discounted these options given the Landlord has already had the benefit of an extension on the original timescale.

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