



Determination by Private Rented Housing Committee

Statement of Decision of the Private Rented Housing Committee issued under

Section 60 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")

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

Committee Members

Karen Moore (Chairperson)

Charles Reid Thomas (Surveyor Member)

Colin Campbell (Housing Member)

This Decision should be read in conjunction with:-

- i) Decision in respect of the Property dated 28 January 2015;
- ii) Repairing Standard Enforcement Order in respect of the Property dated 28 January 2015;
- iii) Variation of Repairing Standard Enforcement Order in respect of the Property dated 30 July 2015;
- iv) Failure to Comply Certificate in respect of the Repairing Standard Enforcement Order dated 11 May 2016;
- v) Rent Relief Order dated 11 May 2016.

Background

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. The president of the Private Rented Housing Panel, having considered the application, an Inspection and Hearing for 21 April 2015 at 10.00 a.m. and 11.30 a.m., respectively, following which the Committee imposed a Repairing Standard Enforcement Order ("RSEO"). Following written representations by the parties, the Committee subsequently varied the RSEO on 30 July 2015. The surveyor member of the Committee re-inspected the Property on 14 January 2016 and noted that the works required by the RSEO as varied were outstanding. A further Hearing, at which neither the Tenant nor the Landlord was held on 20 April 2016 following which further Hearing the Committee issued a Failure to Comply Certificate and imposed a Rent Relief Order, both dated 11 May 2016. Further to written representations from both parties a third Inspection and Hearing were fixed for 8 November 2016.

Third Inspection and Hearing.

The Inspection took place on 8 November 2016 at 10.00 a.m. at the Property at which Mr. Paul Murtagh and Mrs. Jillian Murtagh of the Landlords and the Tenant were present.

The Committee inspected the Property with regard to the works and the other matters required by the RSEO as varied, namely:-

"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;*

In addition, the Landlords must:-

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. "*

At the Inspection, the Committee took digital photographs of the Property which photographs form the Schedule annexed and executed as relative hereto.

Following the Inspection, a Hearing was held at Airdrie Business Centre on 8 November 2016 at 11.30 a.m. at which Mr. and Mrs. Murtagh of the Landlords were present. The Tenant was not present at the Hearing.

Mr. and Mrs. Murtagh advised that Committee that they had had difficulties in persuading the co-owner of the common roof to agree to the roof works and that this caused the delay in the works being carried out. They advised the Committee that the roof works had been carried out without the aid of local authority grant funding and that there is a guarantee for the works.

Mr. and Mrs. Murtagh advised that Committee that they had concentrated on the roof works and accepted that the other items listed in the RSEO and the variation thereof had not been attended to by them. In particular, they had not instructed a report on the structure of the building as required by items numbered 6 – 10 inclusive of the RSEO as varied.

Summary of the Issues

The issue to be determined by the Committee is whether or not the Landlords have complied with the RSEO as varied in order that it might be revoked and the Rent Relief Order discharged.

Findings of Fact

From the Inspection the Committee noted the following:-

- i. The Property has been re-roofed;
- ii. The windows in the bedroom and the living room and have been repaired;
- iii. The ceilings in the bedroom and living room have been repaired and redecorated;
- iv. The chimney which from parts of the roof structure appears not to have been repaired;
- v. Parts of the downpipes have been replaced;
- vi. No works appear to have been carried out to the external walls of the Property.

From the Hearing, the Committee noted the Landlords' position as put forward by them but found it most unsatisfactory that the Landlords had ignored the greater part of the RSEO as varied

Decision of the Committee and Reasons for the Decision

The Committee's decision was based on the Inspection and the Hearing.

Having made such enquiries as it saw fit, and having been satisfied that the works required by the RSEO as varied have not been carried out, the Committee determines that the Landlords have not complied with the RSEO as varied and so the Committee are not of a mind to revoke the RSEO as varied or discharge the Rent Relief Order.

Right of Appeal

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.

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 16 November 2016

16 Nov 2016

This is the schedule referred to in the foregoing
Decision in respect of case ref prhp/rp/15/012 K. MOORE

**Photographic Record of Reinspection of : 1B Hozier Street, Coatbridge, ML5
4LB (PRHP/RP/15/0012) 8th November 2016**



1B Hozier Street. Front elevation. Roof has been completely retiled, new leadwork and new guttering



Side elevation, vegetation in chimney head, pointing in poor condition, chimney head in poor condition, .



Front elevation. Harling and pointing remains in poor condition.



Bedroom has been redecorated following repair of roof. High damp readings found adjacent to bottom of windows, may be related to defective pointing and harling.