



NOTICE TO LOCAL AUTHORITY
ISSUED BY
THE PRIVATE RENTED HOUSING COMMITTEE
UNDER SECTION 26(2) OF THE HOUSING (SCOTLAND) ACT 2006

prhp Ref: PRHP/IV16/208/11

Re: Property at Flat 1, Forbes Buildings, Great North Road, Muir of Ord ("the house")

Sasine Description: ALL and WHOLE Flat 1 Forbes Buildings (formerly Mackintosh Buildings), Great North Road, Muir of Ord being part and portion of ALL and WHOLE those subjects described in and disposed by Feu Charter to Alexander Mackenzie recorded in the Division of the General Register of Sasines for the County of Ross & Cromarty on 27 October 1927

The Parties:-

WILLIAM MARTIN FORBES residing at 49 Drumsmittal Road, North Kessock, Rosshire, IV1 3JU ("the Landlord")

MR ALAN FORBES residing at Flat 1, Forbes Buildings, Great North Road, Muir of Ord (represented by his agent Ms Alison Macrury of Ross & Cromarty Citizens Advice Bureau) ("the Tenant")

Notice is hereby given to The Highland Council, being the local authority in which the house is situated, that there has been a failure by the Landlord to comply with a Repairing Standard Enforcement Order in relation to the house in terms of Section 26(1) of the Housing (Scotland) Act 2006. The Statement of Decision of the Private Rented Housing Committee under Section 26(1) of the said Act is attached hereto and referred to for its terms.

If an appeal against the decision of the Private Rented Housing Committee is made, then the effect of the decision and any Rent Relief Order is suspended until the appeal is abandoned or finally determined. In the event that the decision is confirmed, then any Rent Relief Order and the decision will be effective 28 days from the date on which the appeal is abandoned or so determined. If an appeal is received then the Private Rented Housing Panel will notify you of this and the eventual outcome of the appeal.

The date of service upon the parties of the decision under Section 26 of the Act is hereby certified to be [date]

In witness whereof these presents type written on this and the preceding page are executed by Ewan Kenneth Miller, Solicitor, Whitehall House, 33 Yeaman Shore, Dundee, DD1 4BJ, Chairperson of the Private Rented Housing Committee at Dundee on 10th August 2012 before this witness:-

L Johnston

witness

E Miller

Chairman

Lindsay Johnston
Secretary
Thorntons Law LLP
Whitehall House
33 Yeaman Shore
Dundee
DD1 4BJ



Statement of decision of the Private Rented Housing Committee under Sections 26 and 27 of the Housing (Scotland) Act 2006

prhp Ref: PRHP/IV16/208/11

Re: Property at Flat 1, Forbes Buildings, Great North Road, Muir of Ord ("the Property")

The Parties:-

MR ALAN FORBES residing at Flat 1, Forbes Buildings, Great North Road, Muir of Ord

WILLIAM MARTIN FORBES residing at 49 Drumsittal Road, North Kessock, Rosshire, IV1 3JU ("the Landlord")

Background

1. On 28 March 2012 the Private Rented Housing Committee ("the Committee") issued a Determination which decided that the Landlord had failed to comply with the duty imposed by Section 14(1) of the Housing (Scotland) Act 2006 ("the Act"). On the same date, the Committee issued a Repairing Standard Enforcement Order ("RSEO") in respect of the Property. The RSEO made by the Committee required the Landlord:-
 - (a) To carry out such works of repair or replacement as are necessary to allow all the windows within the Property to be capable of being opened and closed properly and also properly wind and watertight.
 - (b) To carry out an overhaul of the downpipes, rhones and gutters within the larger building of which the Property formed part to ensure that these are in proper working order.
 - (c) To properly affix the lounge storage heater to the wall.
 - (d) To provide a clear Periodic Inspection Certificate by a suitably qualified electrician confirming that the electrical system within the Property is safe.
 - (e) To carry out such works of repair or replacement to the door between the lounge and kitchen as are necessary to allow the said door to open and close properly
 - (f) To install a mains wired interlinked smoke alarm detection system within the Property to the appropriate current regulations.
2. The Committee had ordered in the RSEO that the works specified were to be carried out and completed within 10 weeks.
3. On 29 June 2012 Mr A Anderson, the Surveyor Member of the original Committee carried out a re-inspection of the Property. The Tenant was present. The Landlord was not present nor represented.
4. It was readily apparent to the Surveyor Member that no works at all had been carried out since the original inspection and issuing of the RSEO. The Tenant advised the Surveyor Member that there had been no contact from the Landlord to him. As far as the Tenant was aware, no tradesmen had called to inspect the Property nor had any works been carried out that he was aware of.

5. The Committee then considered what steps to take. In terms of Section 26(1) of the Act it was for the Committee to decide whether a Landlord had complied with an RSEO made by the Committee. In terms of sub-section 2, where the Committee decides that a landlord has failed to comply with an RSEO, the Committee must (a) serve notice of the failure on the Local Authority; and (b) decide whether to make a Rent Relief Order.
6. The Committee, after discussion, accepted that it was clear, given that no works had been undertaken at all, that the Landlord had failed to comply with the RSEO. Accordingly the Committee were obliged to serve notice of the failure on the Local Authority and resolved to do so.
7. The Committee then decided whether or not make a Rent Relief Order. The Committee considered the condition of the Property. One of the primary concerns of the Committee related to safety issues. No clear Periodic Inspection Certificate by a suitably qualified electrician had been produced. Some of the wiring within the Property had, at the time of the original inspection, looked very poor to the Committee. There was also no smoke detection system within the Property and this left any tenant at risk. The Tenant was also suffering from the windows in the Property being so poor, particularly the kitchen window, which was open to the elements. In the circumstances the Committee had felt a Rent Relief Order was appropriate. Prior to the Committee putting in place a Rent Relief Order the Committee were advised that the Tenant had removed from the property. Given there was no longer a tenancy in place it was not possible to grant a Rent Relief Order. In any event, it was an offence under the Act for the Landlord to relet the Property with an RSEO in place and so the Landlord could not generate any rental from the Property anyway.
8. The Committee also considered the terms of Section 28 of the Act. Sub-section (1) specifies that a landlord who, without reasonable excuse, fails to comply with an RSEO commits an offence. There had been no indication from the Landlord as to why he had failed to carry out any of the steps to comply with the RSEO. In the circumstances the Committee were of the view that Section 28(1) had been breached and therefore also resolved to report the matter to the Police for consideration for prosecution.

Decision

9. The Committee determined that in terms of the Act the Landlord had failed to comply with the RSEO. The Committee determined to serve a notice of failure to comply with the RSEO on the relevant local authority within which the Property was situated and to report the matter to the Police for consideration for prosecution
10. The decision of the Committee was unanimous.

Right of Appeal

11. **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

12. 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.

E Miller

Signed Date 10/8/12
Chairperson