



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

In connection with

**Property at 607 Wellesley Road, Methil, Fife KY8 3PD
(hereinafter referred to as "the house")**

Mrs. Amanda Moug, formerly of 607 Wellesley Road, Methil and now care of Lynn Herbert & Co., Solicitors, 82 High Street, Leven, Fife KY8 4NB (whose agent is Lynn Herbert of Lynn Herbert & Co., as aforesaid) ("the Tenant")

Mr. Navid Siddique and Mrs. Farhat Siddique, both residing at 30 Queens Meadow, Coaltown of Balgonie, Fife KY7 6GZ (whose agent is Mr. Stevie Drummond, care of 84 Kier Hardie Street, Methil) ("the Landlord")

PRHP REFERENCE- KY8/9/09

BACKGROUND

1. Reference is made to the Determination of the Private Rented Housing Committee ("the Committee") dated 13 May 2009 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 the Repairing Standard Enforcement Order ("RSEO") made by the Committee which required the Landlord to carry out such work as is necessary for the purposes of ensuring that the house meets the repairing standard and that any damage caused by the carrying out of any work in terms of the RSEO is made good. In particular the Committee required the Landlord to carry out the following works:-
 - (a) to produce a Gas Safety Certificate for the house to Private Rented Housing Panel to confirm that the installation for the supply of gas is in a reasonable state of repair and in proper working order,

- (b) to carry out such repairs as are necessary to the gutters, roof slates, flashing and roughcasting to ensure that the house is wind and watertight and the structure and exterior of the house are in a reasonable state of repair,
- (c) to replace the two kitchen windows and the sitting-room window and to carry out such other repairs as are necessary to the remaining windows to ensure that all windows are in a reasonable state of repair and proper working order;
- (d) to replace the floor covering in the kitchen to ensure that it is capable of being used safely,
- (e) to carry out repairs to the external door to ensure that it is in a reasonable state of repair, and in proper working order and the house is wind and water tight,
- (f) to ensure that the communal yard is made tidy so that it is in a reasonable state of repair,
- (g) to carry out such repairs as are necessary to the internal doors to ensure that they are in a reasonable state of repair and in proper working order,
- (h) to remove the wardrobe in the bedroom or to repair the wardrobe to ensure that it is in a reasonable state of repair and proper working order, and
- (i) to carry out such works to the property as are necessary to comply with Section 13(1) of the Housing (Scotland) Act 2006 by the installation of a satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire. The provisions of section 13(5) of the said Act must be regarded in relation to the said installation.

(which works are hereinafter collectively known as "the said repairs").

Said repairs to be carried out and completed within a period of 56 days from the date of service of the Notice of the RSEO. Service of the Notice of the RSEO was effected on the Landlord on 22 May 2009.

2. On 27 July 2009 a request was made to the Committee by the Landlord to extend the timescale for completion of the works detailed in the RSEO for a period of 3 months as he was not in a financial position to carry out the repairs. Before the Committee had made a decision on this request, an additional ground for the request for a variation was received on 28 July 2009 from the Landlord based on additional works which had been identified at the house following upon the removal of kitchen fittings and to a bath which was broken and leaking. The Tenant's solicitor had indicated previously that the Tenant does not wish to participate further in the application before the Committee and, as a consequence, her representations were not sought.

The Committee considered the request for a variation and were not persuaded to grant a variation based on the Landlord's financial ability to carry out the works but, mindful of Sections 25(1)(a) of the Act, considered that it would be reasonable to give the Landlord an extension of the period required to complete the works detailed in the RSEO in view of the additional works which he had identified as required to the house and issued a variation of the RSEO in terms of section 25(1)(a) of the Act. Given the nature of the additional works identified by the Landlord, the Committee unanimously determined that there should be a variation of the RSEO to allow completion of the works by 1 September 2009.

3. On 27 August 2009 a request was made to the Committee by the Landlord to extend the timescale for completion of the works detailed in the RSEO for a period of six to eight weeks due to the extent of the repairs required and the cost involved. The Committee considered the request but was not minded to grant a variation since in their view a sufficient time had been given to the Landlord to carry out the specified works. The Committee did not consider that the funding arrangements for works was a matter which should impact on their decision regarding an extension of the time-limit for completion of works detailed in a RSEO, but observed that the landlord had had a period in excess of three months to make such arrangements. The decision of the Committee was unanimous.

4. On 3 September 2009 Mr. Ian Mowatt, Surveyor Member of the Committee, carried out an inspection of the house for the purpose of ascertaining if the said repairs detailed in the RSEO had been completed. The Landlord's brother, Mr. Nadim Siddique, was present at the inspection of the house. A report on Mr. Mowatt's findings was submitted to the Committee indicating that none of the items of work detailed in the RSEO had been dealt with or commenced. The additional kitchen and bathroom works which were the cause of the variation of the RSEO had not been carried out although the kitchen fittings had been removed. The only other change noted from the time of the original inspection was that a section of rainwater guttering directly above the external door had been removed but not replaced. A front bedroom could not be accessed due to the door being padlocked and the reason given for this was that tools were being stored in the room. Otherwise the house was in the same condition as that at the original inspection by the Committee. Mr. Nadim Siddique stated that the work had not been carried out due to financial difficulties but would be completed by the end of the year. The Landlord was advised in writing by recorded delivery post of the inspection findings and invited to make written representations to the Committee for their consideration during their deliberations on whether there had been a failure to comply with the RSEO. Initially, the Landlord was given 14 days until 2 October 2009 to respond with his representations. However, this was extended because of issues about paperwork from the Landlord going missing in the post and due to a family bereavement of the Landlord. However, it was made clear to the Landlord that the final day for the submission of written representations to the Committee was 19th October 2009 at 5pm and no further extension of this time-limit would be given. It was recommended that the Landlord

submit the written representations by fax or e-mail or receive proof of the PRHP's receipt of these papers. No representations were received from the Landlord.

Accordingly, the Committee in light of the information provided from the inspection, did not consider that satisfactory progress had been made in carrying out the required works and did not consider that it was appropriate to vary the RSEO by giving the Landlord a further extension of the time for completion of the works and the Committee proceeded to consider whether there had been a failure to comply with the RSEO in terms of Section 26(1) of the Act.

DETERMINATION AND REASONS

5. The Committee considered the evidence from the inspection and the comments of the Landlord's brother but given the passage of time since the RSEO was served, the lack of any progress in carrying out the works, and the lack of written representations from the Landlord or any agent, 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 in which the house is situated. The evidence was clear from the inspection that the said work had not been completed and this was not challenged by the Landlord. The Landlord's brother had commented on the financial difficulties of the Landlord but a considerable period of time had elapsed since the RSEO had been issued and an extension had already been given because the Landlord had identified additional repairs. No progress at all had been made on the required works which remained outstanding and necessary and the Committee concluded that there had been a clear failure to comply with the RSEO despite having been given an extended period to complete the required works. Having decided that the Landlord had failed to comply with the RSEO, the Committee decided to refer the matter to the Police for prosecution under Section 28(1) of the Housing (Scotland) Act 2006.

DECISION

The Committee, having made such enquiries as is fit for the purposes of determining whether the Landlord has complied with the RSEO in relation to the house, and taking account of the evidence of the inspection and the lack of written representations or evidence from the Landlord, determined that the Landlord had failed to comply with the RSEO in terms of Section 26(1) of the Housing (Scotland) Act 2006 and that a notice of the failure be served on the Local Authority in which the house is situated. Further the Committee decided to refer the matter for prosecution under Section 28(1) of the said Act.

The decision of the Committee was unanimous.

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

Chairperson,
28th October 2009



NOTICE TO LOCAL AUTHORITY

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

**RE: PROPERTY AT 607 WELLESLEY ROAD, METHIL, FIFE KY8 3PD
(hereinafter referred to as "the house")**

PRHP reference: KY8/9/09

THE PARTIES:

Mrs. Amanda Moug, formerly of 607 Wellesley Road, Methil and now care of Lynn Herbert & Co., Solicitors, 82 High Street, Leven, Fife KY8 4NB (whose agent is Lynn Herbert of Lynn Herbert & Co., as aforesaid) ("the Tenant")

**Mr. Navid Siddique and Mrs. Farhat Siddique, both residing at 30 Queens Meadow, Coaltown of Balgonie, Fife KY7 6GZ
(whose agent is Mr. Stevie Drummond, care of 84 Kier Hardie Street, Methil)
("the Landlord")**

Notice is hereby given to Fife 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 is suspended until the appeal is abandoned or finally determined. In the event that the decision is confirmed, then 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 ...³... November 2009.

A Devanny

Chairperson /

Date...28th October 2009...