



**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 10 Strathspey Crescent, Airdrie ML6 6JE  
( hereinafter referred to as "the house" )**

**The Parties**

**Miss Eva Cupples ("the Tenant")**

**Ms. Cate McDonald, also known as Ms Catherine Sharon MacDonald, 31 Jenny  
Burton Way, Hucknall, Nottingham, NG15 7QS ("the Landlord")**

**Reference PRHP/RP/15/0112**

**BACKGROUND**

1. Reference is made to the Determination of the Private Rented Housing Committee ("the Committee") dated 17 August 2015 which decided that the Landlord had failed to comply with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 ("the Act"). This determination confirmed that the Landlord had failed to ensure that the house is wind and watertight and in all other respects 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 Repairing Standard Enforcement Order ("the RSEO") dated 17 August 2015 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 the RSEO is made good.

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

- a. To produce an up to date electrical installation condition report that the said installation meets BS 7671 and an in service inspection and test report on all electrical appliances and equipment from a competent suitably qualified and registered electrician.
- b. To produce an up to date gas safety record by a suitably qualified Gas Safe registered engineer to address the state of repair and working order of the central heating system, including the central heating boiler and flue, and hot water supply in the house.
- c. To repair the loose socket located on the wall beside the cooker in the kitchen.
- d. To repair or replace the shower screen and adjoining sealant to prevent water from escaping from the bath onto the floor below.
- e. To install a smoke alarm in the living room and in the ground floor hallway and a heat alarm in the kitchen and to ensure that all of these alarms are hardwired alarms and interlinked with one another.
- f. To clean the gutter at the rear of the house to ensure that it is in proper working order.
- g. To repair or replace the boundary fence located at the rear of the house between the house and Number 9 Strathspey Crescent, Airdrie.
- h. To carry out such repairs as are required to ensure that the garage is wind and watertight.

(Hereinafter the works detailed at (a) to (h) are collectively known as "the said repairs").

The said works were to be carried out and completed within a period of 28 days from 20 August 2015.

2. On 30 September 2015 Ms. Carol Jones, Surveyor Member of the Committee, carried out an inspection of the house for the purpose of ascertaining if the said repairs in the RSEO had been completed. The date and time of the re-inspection was notified to parties in advance. At the re-inspection the house appeared to be vacant. A report on her findings was submitted to the Committee indicating that she was unable to ascertain whether any internal works had been carried out; and she confirmed that none of the external repairing issues have been addressed; and the PRHP administration had not received any of the required reports or any other evidence of works having been carried out.

Specifically, the Surveyor Member noted that the rear gutter remains choked with vegetation and has not been cleaned; the rear boundary fence between the house and No. 9 Strathspey Crescent remains damaged and has not been repaired or replaced; and the fascia to the garage has not been repaired and no external repairs have been carried out to ensure that the garage is wind and watertight.

A copy of this report was sent to the Landlord by e-mail and post. In response a copy of a home report was received and the Landlord's agent indicated the house was being put on the market for sale. The Landlord indicated that access to the house had not been given on 30 September 2015 due to illness.

3. Prior to a further re-inspection the Landlord confirmed on 23 November 2015 that some works had been carried out but some would not be as the house was being sold in its present condition.

4. On 30 November 2015 Ms. Carol Jones, Surveyor Member of the Committee, carried out an inspection of the house for the purpose of ascertaining if the said repairs in the RSEO had been completed. Despite intimating the date and time of the inspection in advance the Landlord did not attend and, therefore, an internal inspection was not possible. It was noted that none of the external repairing issues had been addressed since the previous external re-inspection on 30 September 2015. It was confirmed that the PRHP administration had not received any of the required reports or any evidence of works having been carried out. This report was sent to the Landlord on 17 December 2015. The letter sent to the Landlord along with the report indicated that it would be possible that the Committee would draw an inference from the lack of access and absence of works to the outside of the house that no works to comply with the RSEO had taken place internally. The letter stated that if the landlord wished to dispute this inference, then evidence of works, for example in the form of trade receipts and photographs, must be provided with the written representations on the report to support the works completed internally. If no such evidence is produced, the Landlord was advised that the Committee would be likely to make the inference that no works internally to the house had been completed.

No response has been received from the Landlord to the letter and re-inspection report sent on 17 December 2015.

5. The Committee comprised Mrs. Aileen Devanny, Chairperson, Ms. Carol Jones, Surveyor Member, and Mrs. Mary Lyden, Housing Member.

## **DETERMINATION AND REASONS**

6. The Committee considered the evidence. 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 in which the house 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 as the Landlord possesses rights for access under Section 181(4) of the Act and the Tenant appears to have vacated the house and it is being marketed for sale. Ample opportunity has been provided to the Landlord to carry out works. The Landlord accepts that she has failed to carry out at least some of the works in the RSEO. The re-inspection findings indicate no external works have been completed and ample opportunity has been given to the Landlord to challenge the inference that the works internally have not been completed and to provide contradictory evidence. No such evidence has been forthcoming from the Landlord. The Committee expresses their disappointment that despite being given an extension of time to complete the works, the Landlord has not carried out and completed the works.

The Committee 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 works were still necessary.

Given that the house appears to have been vacated by the Tenant, the Committee did not consider that a Rent Relief Order in terms of Section 27 of the Act is 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,  
22 January 2016