



DETERMINATION BY PRIVATE RENTED HOUSING COMMITTEE

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

**In connection with
Property at Croft of Danshillock, King Edward, Banff AB45 3NJ more
particularly described in Land Certificate Title number ABN101219
(hereinafter referred to as “the House”)**

The Parties:

**Amanda McIrvine, formerly of Croft of Danshillock, King Edward, Banff AB45
3NJ (hereinafter referred to as “the Tenant”)**

**Roger Mark Adam, 18 The Glebe, Kemnay, Inverurie AB51 5NW and Jane
Michelle Massey, Lower Plaidy, Turriff AB53 5RJJ (hereinafter referred to as
“the Landlord”)**

PRHP REFERENCE PRHP/RP/15/0174

The Committee comprised the following members:

John McHugh, Chairperson
John Blackwood, Housing Member
Mark Andrew, Surveyor Member

DECISION

The Committee having carried out a further inspection of the House determined that the work required by the Repairing Standard Enforcement Order dated 22 February 2016 (“the RSEO”) had not been completed and that the Landlord had failed to comply with the RSEO.

The decision of the Committee was unanimous.

Background

The RSEO required the Landlord to complete the following work within six months of service of the RSEO:

- 1 To install fire detection devices in compliance with the terms of the Scottish Government Guidance on Satisfactory Provision for Detecting and Warning of Fires
- 2 To render the House reasonably free of dampness.
- 3 To carry out repairs to the roof such that it is in reasonable condition and reasonably able to resist the elements.
- 4 To produce an Electrical Installation Condition Report prepared by a qualified electrician who is, or whose employer is, registered with NICEIC, SELECT or NAPIT, which confirms that the electrical installations within the House are in safe, working order.

Reasons for the Decision

On 1 September 2016, the Surveyor Member of the Committee carried out a re-inspection of the House. No internal access was provided. Jane Michelle Massey was present but had no key to the front door. The only other access, via the back door, was boarded up.

At the re-inspection the following was noted:

None of the works required by the RSEO appeared to have been carried out.

Both Ms Massey and Mr Adam were provided with a copy of the report of the re-inspection and both have indicated in writing that they accept that it is accurate. Both indicated that they did not wish to make representations on the matter at a hearing. Ms Massey has indicated that she has no access to the property and that only Mr Adam can provide that. For his part, Mr Adam continues to advise that he does not consider himself to be a landlord in that the letting of the House took place by Ms Massey without, he claims, any knowledge on his part. We continue to be of the view that in circumstances where both Ms Massey and Mr Adam were the owners of the House at the time the tenancy was granted, both are landlords and both are subject to the terms of the Housing (Scotland) Act 2006.

Ms Massey and Mr Adam are engaged in an acrimonious separation process and the House appears to play a part in that process.

Right of Appeal

Section 64 of the Act provides a right of appeal to a landlord or tenant aggrieved by a decision of a private rented housing committee. An appeal may be made to the Sheriff within 21 days of the Landlord or Tenant being informed of the decision.

Where such an appeal is made, the effect of the decision and 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.

J McHugh

John McHugh
Chairperson

Date: 4 November 2016

16 JAN 2017

Banff**12 January 2017****Sheriff Mann**

Act: MacAndrew

Alt: MacAndrew

The Sheriff, on joint motion, Grants the application as craved and in terms thereof; Quashes the decision of the Private Rented Housing Committee dated 4th November 2016 in so far as it is directed against the applicant, Roger Adam; Finds no expenses due to or by any party.

Sheriff Mann

Sheriff

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