



**Determination by Private Rented Housing Committee
Statement of decision of the Private Rented Housing Committee under Section 24 (1) of the
Housing (Scotland) Act 2006**

Ref: PRHP/RP/14/0207

Re property at: 2 Bogside Farm Cottages, Old Balmore Road, Balmore, Torrance, Glasgow G64 4AE, being the subjects registered in the Land Register of Scotland under Title Number STG57405 ("the Property")

The Parties:-

Mr Marc Jones and Mrs Kim Moran-Jones, residing at 2 Bogside Farm Cottages, Old Balmore Road, Balmore, Glasgow, Torrance, G64 4AE ("the Tenants")

And

Mrs Catherine Barrett, residing at Flat 4/3, 17 Hastie, Street, Glasgow, G3 8AE ("the Landlord")

Decision

The Private Rented Housing Committee ("the Committee") has now determined that the Landlord has failed to comply with the duty imposed by Section 26(1) of the Housing (Scotland) Act 2006 ("the Act") in relation to the requirements of the Repairing Standard Enforcement Order ("RSEO") dated 11 December 2014, and further determined that notice of that failure should be served on the Local Authority in which the property is situated. The Committee further determined to make a Rent Relief Order in terms of Section 27 of the Act, which order shall take effect 28 days after the last date on which the decision to make the Rent Relief Order may be appealed under Section 64 of the Act.

Background

1. On 11 December 2014, the Committee issued a determination which stated that the Landlord had failed to comply with the duties imposed by Section 14 (1)(b) of the Act. On the same date the Committee issued a RSEO in respect of the property.

2. The RSEO made by the Committee required the Landlord to either repair and/or replace the integrated fridge/freezer which is situated within the kitchen of the property so that it is in a reasonable state of repair and in proper working order. The Committee further required that, in the event that the appliance was not capable of being repaired, the Landlord shall provide an alternative and functioning integrated appliance which should replace the appliance provided by the Landlord at the start of the tenancy. The Committee further determined that any alternative appliance that was supplied by the Landlord should be of a similar size and capacity to the original fridge/freezer appliance which was supplied by the Landlord at the start of the tenancy and should be in a reasonable state of repair and in proper working order.
3. The Committee ordered that the works specified in the RSEO were to be carried out and completed within 28 days from the date of service of the RSEO upon the Landlord.
4. On 7 January 2015, the Landlord emailed the offices of the Private Rented Housing Panel to advise that she had only recently returned from holiday and that she was making arrangements to replace the integrated fridge/freezer appliance at the property.
5. On 14 January 2015, the tenants wrote to the Private Rented Housing Panel to advise that, as at that date, the Landlord had failed to comply with the terms of the RSEO.
6. On 26 January 2015, the Landlord advised the Private Rented Housing Panel that she had engaged an Engineer to repair the fridge/freezer but had been unable to gain access to the property to allow the Engineer to carry out the necessary repairs.
7. By letter to the Private Rented Housing Panel dated 9 February 2015, the tenants reported that the Landlord had still not complied with the terms of the RSEO. The tenants further confirmed that they wish the Committee to consider making a Rent Relief Order in respect of the property.

8. The tenant has confirmed that the Landlord has not complied with the RSEO. The Landlord has indicated that whilst she is taking steps to comply with the terms of the RSEO, she has not carried out the necessary steps as required by the RSEO. The Committee has accordingly determined that the Landlord has failed to comply with the duty imposed by Section 26(1) of the Act in relation to the requirements of the RSEO and have further determined that notice of that failure should be served upon the Local Authority in which the property is situated.
9. The Committee further determine that a Rent Relief Order should be made in terms of Section 27 of the Act, given the Landlord's failure to comply with the terms of the RSEO.
10. The Committee considered the amount by which the rent payable under the tenancy in question should be reduced. They considered the impact of the outstanding repairs on the Tenant's enjoyment of the property. The Tenant has in the past given evidence to the Committee that the fridge in the property does not achieve an appropriate minimum temperature and it is insufficient to cool food stuff and in particular, fresh foods such as milk and meat etc. cannot be chilled within the fridge section of the integrated appliance as it does not operate correctly. Despite the terms of the RSEO and the opportunities given to the Landlord to carry out the necessary works to comply with that RSEO, the Landlord has failed comply with the terms thereof. The fridge/freezer appliance continues to fail to meet the repairing standard. Given the Landlord's failure to comply with the terms of the RSEO, the Committee determined that an appropriate reduction in rent would be to reduce the rent payable under the tenancy by 10%.
11. The Committee proceeded to make a Rent Relief Order in terms of Section 27 of the Act, which order shall take effect from 28 days after the last date on which the decision to make the Rent Relief Order may be appealed under Section 64 of the said Act.

Right of Appeal

- 10. 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

- 11. 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.

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Signed
Andrew Cowan, Chairperson

Date 25/2/15

.....Witness

Laura McManus, Secretary, 7 West George Street, Glasgow, G2 1BA