



Decision by the Private Rented Housing Committee

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

prhp ref: prhp/IV24/112/09

**Re: The residential dwellinghouse at
Easter Fearn Farm Cottage
Ardgay
Sutherland
IV24 3DL
("the Property")**

The Parties:-

**Ms Romina McNeill resident at the Property
("the tenant")**

and

**Mr Charles Brooke
Mid Fearn Lodge
Ardgay
Sutherland
IV24 3DL
("the landlord")**

The Background

1. On 26 November 2009 the tenant applied to the Private Rented Housing Panel ("the PRHP") for a determination as to whether or not the landlord had failed to comply with the duties imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 ("the Act").
2. Following receipt of the tenant's application, the President of the PRHP intimated that the application should be referred to a Private Rented Housing Committee in accordance with Section 22(1) of the Act.
3. The Committee served Notice of Referral on the landlord and the tenant in accordance with the terms of Schedule 2, Paragraph 1 of the Act.
4. An inspection of the Property was held at 10.45am on 12 March 2010. After the inspection a Hearing was held in West End Community Centre, Ainess. The tenant did not attend the Hearing but she was represented by her brother Mr McNeil and by Ms McCrury from Citizens Advice. The landlord attended the Hearing.

5. The Committee found the following facts to be established:-

- Ms Romina McNeill is the tenant of the Property which is owned by the landlord. The Property is a two storey, detached cottage with a hallway, two living rooms, two bedrooms, a kitchen and bathroom.
- The roof of the Property is a traditional slate roof with stone ridge tiles. The Property (in common with neighbouring properties) is located in a low lying area of ground at the foot of a hill. The ground floor of the Property is at the same level as the ground around it.
- The Property is double glazed.
- Whilst at the time of the application there was no hot water available to the tenant in the Property, works had been carried out to remedy this and the installation for heating water was in proper working order.
- The Property does not have a central heating system but is heated by two wood burning stoves (one in each living room). One of the wood burning stoves has recently been replaced. These stoves are in a reasonable state of repair and in proper working order.
- The landlord has provided insulation in the loft area. The insulation has been properly installed.
- The ceiling light fitting in the bathroom functions properly as does an external light.
- There are gaps/holes in the skirting boards, walls and some of the floorboards in the Property.
- The Property was built without a damp proof membrane. This is consistent with properties of this age and form of construction.
- The smoke alarms are not mains wired and are not connected to each other.

6. In a decision of 24 March 2010, the Committee determined that the landlord had failed to comply with the duty imposed by section 14(1) (b) of the Act in that the landlord had failed to ensure that:-

- (a) the Property was wind tight and in all respects reasonably fit for human habitation;
- (b) the Property has satisfactory provision for detecting fires and for giving warning in the event of a fire or a suspected fire.

7. In a Repairing Standard Enforcement Order of 24 March 2010 ("the Order") the Committee required the landlord to:

- (a) repair the gaps/holes in the skirting boards, walls and the floorboards in the Property and replace the external grill below the living room window;

- (b) ensure that the smoke alarms installed within the Property are in accordance with the recommendations contained in BS 5839, Part 6.
8. The Committee re-inspected the Property on 7 July 2010 but found that the Order had not been complied with. Consequently a further re-inspection was held on 18 August 2010. The tenant was present at both re-inspections but the landlord was not. A Hearing was held in West End Community Centre, Alness after the re-inspection of 18 August 2010. The tenant did not attend the Hearing but she was represented by Ms McCrury from Citizens Advice. The landlord did not attend the Hearing. The Committee advised her of the effects of the failure of a landlord to comply with a Repairing Standard Enforcement Order.
 9. Following the re-inspection and Hearing held on 18 August 2010, the Committee determined that the Order had not been complied with. In particular the Property did not have satisfactory provision for detecting fires and for giving warning in the event of a fire or a suspected fire. The landlord had not provided any reasons for his failure to do so. Consequently the Committee proceeded to make a Rent Relief Order reducing the rent payable under the tenancy in question by 90%.
 10. **A landlord or a 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.**
 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.

R Handley

Signed..... Date.....
Chairperson.....



Rent Relief Order

Ordered by the Private Rented Housing Committee

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NOTICE TO THE LANDLORD

Following their decision of 24 March 2010, the Private Rented Housing Committee ("the Committee") determined that in terms of Section 26(1) of the Housing (Scotland) Act 2006 ("the Act") the landlord has failed to comply with the Repairing Standard Enforcement Order dated 24 March 2010 in relation to the property.

The Committee determined to make a Rent Relief Order in terms of Section 27 of the said Act, reducing the rent payable under the tenancy for the house by an amount of 90% of the rent which would, but for the Order, be payable. The rent reduction will 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 said Act.

A landlord or a 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.

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. Where the appeal is abandoned or finally determined by confirming the decision, the Rent Relief Order

will take effect 28 days after the date on which the appeal is abandoned or the decision is confirmed.

In witness whereof these presents type written on this and the preceding page are executed by Ron Handley, chairperson of the Private Rented Housing Committee at Dunbar on 2 September 2010 before this witness:-

 L McKay _witness R Handley _chairman

 LINDA MCKAY name in full

 2 LESLIE WAY Address

 DUNBAR

 EAST LOTHIAN

 HOUSEWIFE. Occupation