



Notice of a decision to Vary

A Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

prhp Ref: PRHP/IV24/124/10

Re : Property at Easter Fearn Farm Cottage, Ardgay, Sutherland, IV24 3DL ("the Property")

The Parties:-

CHARLES WESTON BROOKE residing at Mid Fearn Lodge, Ardgay, Sutherland, IV24 3DL ("the Landlord")

MS ROMINA McNEIL residing at Easter Fearn Farm Cottage, Ardgay, Sutherland, IV24 3DL (represented by Ms Alison MacRury, Ross & Cromarty Citizens Advice Bureau, 4 Novar Road, Alness, IV17 0QG) ("the Tenant")

NOTICE TO CHARLES WESTON BROOKE ("the Landlord")

The Private Rented Housing Committee having determined on 22 June 2011 that the **Repairing Standard Enforcement Order** relative to the Property dated 16 December 2010 should be varied, the said **Repairing Standard Enforcement Order** is hereby varied with effect from the date of service of this Notice in the following respects:-

1. The period allowed for the completion of the work required by the order is extended for a further period of one month to allow the Landlord to:
 - Carry out the works required by the specialist fire installation report instructed by the Committee by TNT Fire Installation Drumnadrochit dated 21 July 2011
 - Replace the melted curtain track in the spare room of the Property
 - Complete the sealing of the remaining gaps in the flagstones in the main room of the Property

Subsection 25(3) of the Housing (Scotland) Act 2006 does not apply in this case.

A landlord or a tenant aggrieved by this 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 variation is suspended until the appeal is abandoned or finally determined, and where the appeal is abandoned or finally determined

by confirming the decision, the variation will be treated as having effect from the day on which the appeal is abandoned or so determined.

In witness whereof these presents type written on this and the preceding page are executed by Ewan Kenneth Miller, Solicitor, Whitehall House, 33 Yeaman Shore, Dundee, DD1 4BJ, Chairperson of the Private Rented Housing Committee at Dundee on 22 June 2011 before this witness:-

(L Johnston

Chairman

witness

E Miller

Lindsay Johnston
Secretary
Thorntons Law LLP
Whitehall House
33 Yeaman Shore
Dundee
DD1 4BJ



Statement of decision of the Private Rented Housing Committee under Section 25 (1) of the Housing (Scotland) Act 2006

prhp Ref: PRHP/IV24/124/10

Re: Property at Easter Fearn Farm Cottage, Ardgay, Sutherland,
IV24 3DL ("the Property")

The Parties:-

MS ROMINA McNEIL residing at Easter Fearn Farm Cottage, Ardgay, Sutherland, IV24 3DL (represented by Ms Alison MacRury, Ross & Cromarty Citizens Advice Bureau, 4 Novar Road, Alness, IV17 0QG) ("the Tenant")

CHARLES WESTON BROOKE residing at Mid Fearn Lodge, Ardgay, Sutherland, IV24 3DL ("the Landlord")

Decision

1. The Private Rented Housing Committee, having made such enquiries as it saw fit for the purposes of determining whether the Landlord has complied with the Repairing Standard Enforcement Order (hereinafter referred to as "RSEO") in relation to the Property concerned and taking account of the representations made by the parties, determine that the Landlord should be given an extension of one month to the period allowed for completion of the required works in terms of Section 25(1) of the Housing (Scotland) Act 2006 (hereinafter referred to as "the Act").

Background

2. Reference was made to the Determination of the Committee dated 16 December 2010 which decided that the Landlord had failed to comply with the duty imposed by Section 14(1)(b) of the Act. An RSEO was made by the Committee, which required the Landlord to carry out the works as specified therein. The said works were to be carried out and completed within 28 days from the service of the RSEO.
3. Mr Colin Hepburn (Surveyor Member) reinspected the Property on 21 January 2011 at 10am. The Tenant was present as was Mr Michael Brown the Landlord's agent.
4. The RSEO required the Landlord:-
 - (a) To repair the connection between the stove and flue in the downstairs spare room of the Property and thereafter to carry out such other works as were necessary to allow the Landlord to produce a report from a reputable heating engineer confirming that the stove is in proper working order and capable of being used safely by the Tenant.
 - (b) To have the said heating engineer confirm whether or not an electrical pump requires to be added to the back boiler in the main living room of the Property to ensure it is in proper working order and, if so required by the recommendation of the said heating engineer, to install an appropriate standard and type of pump.
 - (c) To remedy any defects to the electrical system within the Property sufficient to allow the issue of a domestic installation periodic inspection report from a suitably qualified electrician confirming that the system is in satisfactory condition.

- (d) To seal the gaps within the flagstones in the Property with an appropriate sealant.
5. It was apparent from the Surveyor's reinspection report that whilst the Landlord had carried out some works at the Property not all had been done as required.

A telephone conference call was organised for 31 March 2011. Just prior to the conference call it became apparent that the Landlord had carried out further works following upon the reinspection report issued by Mr Hepburn in an effort to address the outstanding items. Neither party had intimated these works to the Committee once they had been done.

Present on the conference call were Mr E K Miller, Chairman and Legal Member; Mr C Hepburn, Surveyor Member; the Landlord, Mr Charles Brooke; the Tenant, Miss Romina McNeil and her representative, Miss Alison MacRury of Ross & Cromarty Citizen's Advice Bureau.

6. During the course of the conference call, the following items were confirmed as having been dealt with to the satisfaction of both parties:-

- (a) The stove in the spare room of the Property;
- (b) The electrical wiring had been checked, tested and upgraded as necessary and the Tenant had indicated that she was generally happy with its installation.

The following items were, however, still in dispute:-

- (a) The sealing of the gaps within the flagstones within the Property with an appropriate sealant. Some areas had been done but not all
- (b) The Landlord, in the course of seeking to dry out the spare room, had used an industrial heater. This had melted the curtain track within the spare room to the extent it could not be used.
- (c) The stove in the main downstairs room was still an issue. Upon receiving the Surveyor's report, the Landlord had carried out further works including the installation of several radiators that were connected to the heating system. The Tenant was still unhappy and in particular had an issue with the connection from the back of the stove to the flue and a concern that the stove was too powerful for the system installed.

A lengthy discussion ensued on the various issues. The Landlord accepted that the curtain track required to be replaced and that the sealant in the gaps in the flagstones also required to be dealt with.

The Landlord was satisfied that the stove had been installed correctly. The Tenant was adamant it was not. The Committee did not have the relevant expertise to make a definitive judgment on this from the information provided. After much discussion and with some considerable reluctance, the Committee resolved to instruct its own independent survey report to confirm whether the stove and the general heating system was installed and connected correctly or not. Both parties agreed that they would abide by the terms of the specialist report. If works were required in terms of this, the Landlord would undertake to do them.

The Committee then noted that there had again been difficulties in relation to access between the Landlord and Tenant and again confirmed that they expected the parties to act and co-operate sensibly in this regard.

The Committee accordingly resolved to issue a variation of the RSEO to give the Landlord one month from the date of receipt of the specialist fire installation report to

allow him (a) to carry out any works required in terms of the said report, if any; (b) to deal with the sealing of the gaps in the flagstones; and (c) to replace the melted curtain track. All parties were, after extensive discussion agreeable that this was an appropriate and acceptable course of action.

7. Following upon the conclusion of the teleconference the Committee subsequently instructed T & T Fire Installation of Drumnadrochit to provide a specialist report on whether the stove and heating system were correctly installed or not. A copy of the report was duly received by the Committee on 21st June 2011 and a copy of it is annexed to this decision. As can be noted from the report the stove installed is not appropriate and there are a number of other faults. Accordingly, and in line with the agreement reached during the course of the teleconference, the Landlord will require to carry out all the recommendations within the said report along with the repairs to the floor and the replacement of the curtain track.
8. The decision of the Committee was unanimous.

Right of Appeal

9. **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

10. 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.

E Miller

Signed Date..... 22/6/11
Chairperson