



**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 West Lodge, Stobo, Peebleshire EH45 8NY (hereinafter referred to as “the House”)**

**Carol McMillan, West Lodge, Stobo, Peebleshire EH45 8NY (hereinafter referred to as “the Tenant”)**

**Hugh and Charles Seymour, Easterknowe Farmhouse, Stobo, Peebleshire EH45 8NU (hereinafter referred to as “the Landlord”)**

**PRHP REFERENCE PRHP/ RP/13/0019**

The Committee comprised the following members:

John McHugh, Chairperson  
John Blackwood, Housing Member  
Donald Marshall, 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 served on 29 October 2013 (“the RSEO”) had not been completed and resolved to issue a Rent Relief Order.

The decision of the Committee was unanimous.

## **Background**

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

- 1 To have all windows in the House, whether by replacement or repair, put into a reasonable state of repair such that they are able to be opened and closed with ease, with all locks working, and so as to prevent water ingress and to reasonably exclude draughts, with all panes of glass undamaged and all frames and sills to be painted adequately and with all mould removed. (As regards the metal windows in the upstairs bedroom there is no obligation to ensure that they can be opened.)
- 2 To repair all decorative damage in the downstairs bedroom and the downstairs hall resulting from water ingress and to remove all mould present.
- 3 To put all light fittings in the House into safe working order and to obtain a certificate from a qualified electrician that the electrical installations in the House are in safe working order and to produce a copy of same to the Committee.
- 4 To repair or replace the wooden lean to garage so that it is in a reasonable state of repair without any sections of rotten wood.
- 5 To repair the ceiling of the store such that it is in a reasonable state of repair.
- 6 To put the front door into a state of repair such that it is reasonably wind and watertight.
- 7 To provide a supply of water which is of sufficient quality and quantity for normal domestic use at the House to include providing, at the Landlord's sole cost, any consumable items such as filters which may be required and to obtain a report by a suitably qualified, independent person as to the sufficiency of the quality and quantity for domestic use of the water supply to the House and to produce a copy of said report to the Committee.

## **Reasons for the Decision**

On 13 February 2014, the Surveyor Member of the Committee carried out a re-inspection of the House.

At the re-inspection the following was noted:

The windows in the kitchen had been overhauled and were satisfactory. The broken window in the cupboard off the bedroom had been boarded over. The other windows had not been repaired or replaced.

The decoration to the downstairs hall and bedroom had not been done and the mould had not been dealt with.

The lights over the stairs and the downstairs hall had been replaced. The kitchen light and the downstairs bedroom light had not been given attention. The hall plaster and finish required to be made good.

No electrical safety certificate had been displayed to the Committee.

The timber garage had not been repaired or replaced.

The store ceiling had been patched with board and required plaster to complete the job.

The front door had been made good and operates satisfactorily.

The water supply had been improved and appeared to be adequate in quality and quantity but no report on these matters had been displayed to the Committee.

Accordingly, some works required by the RSEO had not been completed.

A further re-inspection was carried out by the Surveyor member on 29 July 2014. This revealed that since the previous inspection many of the outstanding works had been given attention. In particular, the following was noted:

1 The windows in the kitchen had been overhauled and are satisfactory. The broken window in the cupboard off the bedroom had been replaced with a new double glazed unit. The windows in the bay had been replaced with double glazed deadlights similar to the cupboard.

2 The decoration to the downstairs hall had been done. A patch of stained wall in the bedroom had not been dealt with for the reason reported that the wall still had to dry out.

3 The light over the stairs and the downstairs hall light had been replaced. The downstairs bedroom light had been fixed and now works. There was still no light in the kitchen. The hall plaster and finish had been made good. An electrical safety certificate has been obtained by the landlord..

4 The timber garage had been replaced with a new shed. The roof had no gutter (rhone) fitted so rain cascades off the roof on to the path to the side. Telephone cables connected to the house lie on the surface of the path and are considered to be a trip hazard.

5 The store ceiling had been patched with board and finished with plaster and paint.

6 The front door had been made good and operated satisfactorily. Additionally, new handrails had been fitted to the entry bridge to the main door.

7 The water supply had been improved and appeared (in so far as could be ascertained from visual inspection alone) to be adequate in quantity

and quality. A report from a suitably qualified person as to the quality and quantity of water for domestic purposes had not been displayed to the Committee.

The parties have exchanged extensive correspondence with one another regarding the outstanding works required by the RSEO. They have copied much of that correspondence to the Committee. A recurring theme of the correspondence between the parties has been the performance of those employed by the Landlord and the parties' ability to agree dates for works to take place.

On 14 October 2014, the Committee issued a communication to the parties which stated:

"The Committee are considering the present condition of the property and whether there has been compliance with the Repairing Standard Enforcement Order (RSEO). The Committee has carefully considered the communications received from both parties from which it appears that the parties may be in agreement that the works specified in the RSEO have been completed in relation to those identified at paragraph numbers 1, 3, 5 and 6 of the RSEO.

As regards 4, the parties appear to agree that there has been partial compliance by the provision of a new shed although there remain issues regarding the run off of water from its roof and the fact that cables which were originally attached to the original shed have not been attached to the replacement shed.

As regards 2, the most recent information received from the Tenant would suggest that works done in the downstairs bedroom have been ineffective.

As regards 7, the Tenant continues to report problems with the water supply. The Committee has noted that the email from the Council employee is of some relevance but does not offer an opinion on the quality and quantity of the water supply to the property.

The Committee considers it likely that the issues noted in relation to paragraphs 2, 4 and 7 above would, on the basis of the currently available information, result in a finding of failure to comply with the RSEO.

The Committee invites the parties to make any further representations which the parties may wish to make on these issues within the next 21 days. Representations may include providing any further reports or advising of any other works which may have taken place."

The Committee has received representations from the parties since. In particular, the Landlord addressed the content of the Committee's communication of 14 October 2014 in its letter of 18 October 2014. The Landlord suggested a joint meeting to discuss the issues relating to the second bedroom. The Landlord considered that the replacement garage was adequate to comply with the RSEO but that the wires on the ground required to be addressed at a date to be agreed with the Tenant. The Landlord addressed the question of the water supply but not the absence of the report required by the RSEO.

The parties appear to have met to discuss the outstanding works on 26 October 2014. The Landlord copied to the Committee a communication sent to the Tenant on 6 November 2014 regarding arranging an electrician's appointment. No further communication has been received.

It is recognised by the Committee that this case has not been a typical one. There appear to have been difficulties in communications between the parties and in the arranging of convenient times for repairs. The time which has expired since the making of the RSEO is very significant and the works required do not yet appear to have been fully and properly addressed.

In particular, the Landlord appears never to have produced the report required by paragraph 7 of the RSEO. The Landlord's approach to addressing some of the other matter seems to have been an unduly relaxed one. It is incumbent upon the Landlord either to achieve compliance with the RSEO or to make it clear to the Committee that this has not been done; the reasons why; and to apply under section 25 of the Act for a variation of the RSEO. The Landlord in this case has not approached the matter in this way and seems content simply to copy to the Committee emails with the Tenant which discuss arrangements for repairs and any delays which may arise. The Committee had hoped that its communication of 14 October 2014 might have encouraged the Landlord to adopt a more focused approach.

### **Rent Relief Order**

There are significant amounts of work required by the RSEO which have not been completed. The failure to carry out the works has a material detrimental effect upon the tenant's enjoyment of her occupation of the House. In particular, the downstairs bedroom appears not to be habitable because mould is present. In the absence of the required independent report, there is no reassurance that the quantity and quality of the water supply is sufficient.

In the circumstances, the Committee considers that a Relief Order imposing a restriction of rent by 50% is appropriate.

## **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: 18 November 2014



## Rent Relief Order

### Ordered by the Private Rented Housing Committee

prhp Ref: ...prhp/RP/13/0019.....

Re : .....West Lodge, Stobo, Peebleshire EH45 8NY..... ((hereinafter referred to as "the house"))

**The Parties:**

..... Carol McMillan, West Lodge, Stobo, Peebleshire EH45 8NY ..... ("the Tenant")

..... Hugh and Charles Seymour, Easterknowe Farmhouse, Stobo, Peebleshire EH45 8NU .....("the Landlord")

#### NOTICE TO ("the Landlord")

Whereas in terms of their decision dated 18 November 2014, the Private Rented Housing Committee ("the Committee") determined in terms of Section 26(1) of the Housing (Scotland) Act 2006 (the "said Act") that the Landlord has failed to comply with the Repairing Standard Enforcement Order in relation to the house made by the Committee.

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 50% 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(s) are executed by John Miller McHugh, solicitor, 3 Ponton Street, Edinburgh, Chairperson of the Private Rented Housing Committee at Edinburgh on 18 November 2014 before this witness:-

G McHugh

J McHugh

\_\_\_\_\_ witness

\_\_\_\_\_ Chairman

          JILLIAN MCHUGH           name in full

          3 PONTON STREET           Address

          EDINBURGH          

          SOLICITOR           Occupation

