

Determination by Private Rented Housing Committee

Statement of Decision of the Private Rented Housing Committee

(Hereinafter referred to as "the Committee")

Under Section 24(1) of the Housing (Scotland) Act 2006

Case Reference Number: PRHP/TD12/15/10

Re:- Property at 2 Butterlaw Farm Cottages, Coldstream, Berwickshire, TD12 4HQ ("**the property**")

The Parties:-

John Davidson residing at 2 Butterlaw Farm Cottages, Coldstream, Berwickshire, TD12 4HQ ("**the tenant**")

And

R G Russell & Company Limited, Simprim Farm, Coldstream, Berwickshire, TD12 4HG ("**the landlords**")

The Committee comprised:-

Mr James Bauld	- Chairperson
Mr Donald Marshall	- Surveyor member
Mr John Blackwood	- Housing member

Background:-

1. On 13th July 2010, the Committee issued a Determination which decided that the landlords had failed to comply with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 ("the Act"). On the same date the Committee issued a Repairing Standard Enforcement Order ("RSEO") in respect of the property.
2. The RSEO made by the Committee required the landlords to carry out such works as were necessary to:-
 - Restore the cistern and hot water tap within the bathroom to proper working order
 - To install a working smoke alarm within the property in accordance with current standards
 - To make all windows wind and water tight
 - to carry out repairs to the property to eradicate dampness
 - To carry out repairs to the exterior doors to make them wind and watertight
 - To instruct a suitably qualified electrician to carry out a periodic inspection report certifying that all electrical fittings and wiring within the property are safe

3. The Committee ordered that the works specified in the RSEO were to be carried out and completed within 2 months of the date of the service of the Notice. The RSEO was effectively served on the landlords.
4. On 8th November 2010 the Committee were scheduled to carry out a further inspection of the property for the purpose of ascertaining whether the repairs required by the RSEO had been completed.
5. On attending at the property to carry out the re-inspection, the Committee members were advised by the landlords that none of the works had been carried out. The Committee were aware that the tenant of the property had died shortly after the original decision had been issued. The landlords advised the Committee members that the property had not been re-let and remained empty. The Committee accordingly did not enter the property and did not re-inspect the property.
6. A reconvened hearing of the Committee took place on the same date. That date had been notified to the landlords in advance to allow them to make representations to the Committee either in writing or at the hearing. The purpose of the hearing was to decide whether the landlords had complied with the RSEO made by the Committee in terms of Section 26(1) of the Act.
7. The reconvened hearing of the Committee took place within Coldstream Community Centre. The landlords were represented at that hearing.
8. At the hearing it was confirmed that none of the repairs ordered in terms of the RSEO had been carried out. The landlords confirmed that the property remained empty and had not been re-let.

Determination and Reasons

9. The Committee considered the evidence and representations which had been made. The Committee decided that in terms of Section 26(1) of the Act that the landlords had failed to comply with the terms of the RSEO. The Committee noted that the property was now empty and was not occupied by any tenant and noted the landlords' position that it would not be re-let.
10. The Committee considered whether a Rent relief Order should be made in terms of Section 27 of the Act. In the whole circumstances of the case, the Committee determined that no such order should be made notwithstanding the landlords' failure to comply with the terms of the RSEO. The Committee took into account the fact that the tenant had died shortly after the issuing of the original Decision and RSEO and that the property had not been re-let since that date.

Decision

11. The Committee having made such enquiries as it saw fit for the purpose of determining whether the landlords had complied with the RSEO in relation to the property concerned and taking full account of all the evidence provided by the landlords at the hearing determined that the landlords had failed to comply with the RSEO in terms of Section 26(1) of the Housing (Scotland) Act 2006. The Committee determined that notice of the failure be served upon the Local Authority in which the property is situated.
12. The Committee decided not to make a Rent relief Order in terms of Section 27 of the Act.
13. The Decision of the Committee was unanimous.

Rights of Appeal

14. A landlord or tenant aggrieved by the decision of the Committee may appeal to the Sheriff by summary application within 21 days of being notified of that decision.
15. The appropriate respondent in such appeal proceedings is the other Party to the proceedings and not the PRHP of the Committee which made the decision.

Effects of Section 63

16. Where such an appeal is made, the effect of the decision and of any Order made in consequence of it is suspended until the appeal is abandoned or finally determined.
17. Where the appeal is abandoned or finally determined by confirming the decision, the decision and the Order made in consequence of it are to be treated as having effect from the day on which the appeal is abandoned or so determined.

Signed..... **J Bauld**
James Bauld, Chairperson

Date..... *26 November 2010*

Signature of Witness..... **G Williams**

Date..... *26/11/10*

Name: Gillian Williams

Address: 7 West George Street, Glasgow, G2 1BA

Designation: Senior Court Administrator



NOTICE TO LOCAL AUTHORITY
ISSUED BY
THE PRIVATE RENTED HOUSING COMMITTEE
UNDER SECTION 26(2) OF THE HOUSING (SCOTLAND) ACT 2006

prhp Ref: PRHP/TD12/16/10

RE: PROPERTY AT 2 Butterlaw Farm Cottages, Coldstream, Berwickshire, TD12 4HQ
(hereinafter referred to as "the house")

THE PARTIES:

John Davidson residing at 2 Butterlaw Farm Cottages, Coldstream, Berwickshire, TD12 4HQ

AND

R G Russell & Company Limited, Simprim Farm, Coldstream, Berwickshire, TD12 4HG
("the Tenant")

Notice is hereby given to Scottish Borders Council, being the local authority in which the house is situated, that there has been a failure by the Landlord to comply with a Repairing Standard Enforcement Order in relation to the house in terms of Section 26(1) of the Housing (Scotland) Act 2006. The Statement of Decision of the Private Rented Housing Committee under Section 26(1) of the said Act is attached hereto and referred to for its terms.

A Rent Relief Order has been made under Section 27 of the said Act and will take effect 28 days after the last date on which the Rent Relief Order can be appealed under Section 64 of the said Act.

If an appeal against the decision of the Private Rented Housing Committee is made, then the effect of the decision and the Rent Relief Order is suspended until the appeal is abandoned or finally determined. In the event that the decision is confirmed, then the Rent Relief Order and the decision will be effective 28 days from the date on which the appeal is abandoned or so determined. If an appeal is received then the Private Rented Housing Panel will notify you of this and the eventual outcome of the appeal.

The date of service upon the parties of the decision under Section 26 of the Act is hereby certified to be 26 November 2010.

J Bauld

James Bauld, Chairman

Date 26 November 2010

G Williams

Name: Gillian Williams

..... (witness)

Date 26/11/10

Address: 7 West George Street, Glasgow, G2 1BA

Designation: Senior Court Administrator