



DETERMINATION BY PRIVATE RENTED HOUSING COMMITTEE

STATEMENT OF DECISION OF THE PRIVATE RENTED HOUSING COMMITTEE UNDER SECTION 26(1) OF THE HOUSING (SCOTLAND) ACT 2006

In connection with

Property at 29 Kelvin Street, Grangemouth, FK3 8EX, registered under Title
Number STG60860 ("the House")

Stacey Yorkston, 69 Hamilton Road, Grangemouth, FK3 0LG ("the Tenant")

Salmon Real Estate Limited, c/o HBJ Gately, Exchange Tower, 19 Canning
Street, Edinburgh, EH3 8EH ("the Landlord's successor in title")

PRHP REFERENCE PRHP/RP/13/0173

Decision

The Private Rented Housing Committee ("the Committee") has now determined that the Landlord's successor in title has failed to comply with the requirements of the Repairing Standard Enforcement Order ("RSEO") issued further to a decision of the Committee dated 7 July 2014 and further determined that notice of that failure should be served on the Local Authority in whose area the property is situated. The Committee further determined not to make a Rent Relief Order in this matter.

Background

1. On 7 July 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 2006 Act. On or about the same date, the Committee issued a RSEO in respect of the property.
2. As at the date of service of the RSEO, the Landlord and registered owner of the House was Illius Properties Limited, having a registered office at Britannia House, Leek, Staffordshire ("the Landlord").

3. The House was transferred from Illius Properties Limited to Salmon Real Estate Limited (previously Harwood Group), the Landlord's successors in title, on or about 28 November 2014. The RSEO was recorded in the Land Register. The obligations contained within it run with the land and are binding on singular successors in title. Accordingly, Salmon Real Estate Limited assumed the obligation to comply with the RSEO once they obtained a real right to the House.
4. The RSEO made by the Committee required the Landlord to carry out such works as are necessary to:-
 - (i) Remove all mould within the House;
 - (ii) Replace all of the double glazing units within the House or to take such other appropriate measures as are professionally advised in order to meet the Repairing Standard;
 - (iii) Install cavity wall and loft insulation to present building standards (not than 270mm in the loft) or to take such other appropriate measures as are professionally advised to meet the Repairing Standard;
 - (iv) Remove the extractor fan in the bathroom and replace it with a humidity controlled extractor fan;
 - (v) Provide evidence of professional advice having been taken with regard to the most appropriate form of insulation and double glazing or other appropriate measures to be installed with the House and that such advice was followed;
 - (vi) Repair or replace the guttering of the House in order for it to be made in full working order; and
 - (vii) Replace the kitchen drawers with a unit equivalent in standard to that which is there at present.
5. The RSEO specified that the works required by that order required to be completed within three calendar months of the service of the RSEO.
6. Following a request from the Landlord's agents, a variation to the RSEO was issued on or about 3 December 2014 which extended the time permitted for compliance with the order. The compliance date thereby expired on 8 April 2015.
7. On 30 April 2015, PRHP received a letter from agents for the Landlord in which it was explained that the works specified in the RSEO had not been carried out by reason of cost and due to the sale of the House to Salmon Real Estate Limited as aforesaid.
8. On 12 May 2015, PRHP received a letter from agents acting for Salmon Real Estate Limited confirming the transfer of the House and requesting that the RSEO be revoked. It was explained that the new owners, the Landlord's successors in title, did not wish to rent the House.
9. Standing the extent of the works required by the RSEO and given the public interest in ensuring that housing stock which may potentially be used for rental purposes is made reasonably fit for human habitation, the Committee declined to revoke the RSEO.

10. The Committee has not received any proof as required by the terms of the RSEO that any works pursuant to the RSEO have been carried out. Accordingly and in terms of section 28(4) of the Act, the Committee decided on 29 May 2015 that the Landlord's successor in title has failed to comply with the RSEO.
11. Therefore in terms of section 26(2)(a) of the Act, the Committee determined to send a notice of that failure to the Local Authority in whose area the House is situated.
12. The Committee are required in terms of section 26(2)(b) of the Act to decide whether to make a Rent Relief Order. In this case, the Tenant vacated the House on 27 June 2014 and no rent is currently payable. The Committee has accordingly determined not to make a Rent Relief Order.
13. The tenancy in this case has been terminated and, in accordance with section 7(1) and schedule 3 to the Act, the Tenant is accordingly to be treated as having withdrawn the application.
14. In accordance with section 7(3) of schedule 3 to the Act, the Committee have, despite the withdrawal of the application, decided to continue to determine the application in accordance with the provisions of that section. The present decision is made accordingly.

Right of Appeal

15. A landlord or tenant aggrieved by the decision of the PRHP committee may appeal to the Sheriff by summary application within 21 days of being notified of that decision.
16. 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.

Signed:

M. O'Carroll

Maurice O'Carroll
Chairperson

Date: 3 June 2015

Witness: **A. Veitch**

Andrew Veitch, Advocates' Clerk, Parliament House, Edinburgh, EH1 1RF