

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

Re : Property at 2 Onthank Drive, Kilmarnock, KA3 2AY ('the Property')

The Parties:-

Mrs Elizabeth Dunn, 2 Onthank Drive, Kilmarnock, KA3 2AY ('the Tenant')

Thomas Wilson Stewart Woodside and Anita Woodside 33 Gobbins Road, Island Magee, Larne, Co Antrim, BT40 3TX (represented by their agents the Letting Shop, 7 West George Street, Kilmarnock) ('The landlord')

Background

1. On 15th September 2008 the Private Rented Housing Committee ('the Committee') issued a Determination which decided that the Landlord had failed to comply with the duties 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 Landlord to:-
 - (a) Repair the central heating system to ensure that it is in proper working order.
 - (b) Repair the defective double glazing window units in the kitchen and the larger front bedroom to ensure that they are in proper working order.
 - (c) Repair the defective locking mechanism of the front door to ensure that it is in proper working order.
3. The Private Rented Housing Committee ordered that the work specified in the RSEO were to be carried out and completed within five weeks of the date of service of the notice. Service of the notice of the RSEO was effected on the Landlord on 18th September 2008.
4. On 17th November 2008 Mr Michael Links FRICS, surveyor member of the Committee, in the presence of Robert Shea, clerk to the Committee, carried out a further inspection of the Property for the purpose of ascertaining whether the said repairs required by the RSEO had been completed. He reported to the Committee that the central heating system had been satisfactorily repaired however the required repairs to the double glazing window units and the defective locking mechanism of the front door had not been undertaken.
5. A further inspection and reconvened hearing of the Committee was arranged for Monday 2nd February 2009. The date was notified to the parties to enable them to make representations to the Committee in writing or at the hearing. The housing member of the original Committee was unable to attend on 2nd February 2009. The chairperson and the surveyor member of the original Committee attended the reinspection and reconvened hearing. At the reinspection of the property they determined that the required repairs to the double glazing window units and the defective locking mechanism of the front door

were still outstanding and had not been completed. Neither the tenant nor the Landlords attended the hearing.

Decision and Reasons

6. Section 6(1) of Schedule 2 of The Housing (Scotland) Act 2006 authorises a majority of the Committee to make the decisions detailed in Section 6(1) thereof. These decisions include at paragraph (c) thereof the decision as to whether the Landlords have failed to comply with a RSEO and at paragraph (d) whether to make a rent relief order. The chairperson and surveyor member of the original Committee constituting a majority thereof determined (First) that the required repairs to the double glazing window units and the defective locking mechanism of the front door were still outstanding and had not been completed and (Second) that the Landlords had failed to comply with the RSEO. As required by Section 6(3) of Schedule 2 of The Housing (Scotland) Act 2006 they directed that a notice be served on the Local Authority in which the property is situated. The Landlord did not attend the hearing and made no attempt to provide any reasons for not carrying out the said repairs.
7. As authorised by Section 6(1)(d) of Schedule 2 of The Housing (Scotland) Act the chairperson and surveyor member of the original Committee, being a majority of the original committee, considered whether a Rent Relief Order should be made in terms of section 27 of the Act and determined that such an Order should be made given the Landlords failure to comply with the RSEO without reasonable excuse. They then considered the amount by which the rent payable under the tenancy in question should be reduced. They considered the impact of the outstanding repairs on the tenant's enjoyment of the property, the failure by the landlords to carry out the repairs, the fact that the repairs had been outstanding for over three months despite repeated requests and despite the terms of the RSEO. In all the circumstances they determined that an appropriate reduction in rent would be to reduce the rent payable under the tenancy by 65%. They considered that the Rent Relief Order should be effective from 28 days after the last date in which the decision the Rent Relief Order may be appealed under Section 64 of the Act.
8. The said chairperson and surveyor member of the original Committee having made such enquiries as is fit for the purposes of determining whether the landlord has complied with the Repairing Standard Enforcement Order, in relation to the Property concerned, determined that the landlord had failed to comply with the RSEO in terms of section 26(1) of the Housing (Scotland) Act 2006 and that a notice of the failure be served on the Local Authority in which the property is situated.
9. They proceeded to make a Rent Relief Order in terms of section 27 of the Act, which order shall take effect 28 days after the date on which the decision to make the Rent Relief Order may be appealed under section 64 of the Act.

Right of Appeal

10. 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

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.

Signed
Chairperson

J Taylor

..... Date..... 23/2/09

Rent Relief Order

Ordered by the Private Rented Housing Committee

Re : Property at 2 Onthank Drive, Kilmarnock, KA3 2AY (hereinafter referred to as 'the house')

The Parties: Mrs Elizabeth Dunn, 2 Onthank Drive, Kilmarnock, KA3 2AY ('the Tenant')

Thomas Wilson Stewart Woodside and Anita Woodside 33 Gobbins Road, Island Magee, Larne, Co Antrim, BT40 3TX (represented by their agents the Letting Shop, 7 West George Street, Kilmarnock) ('The landlord')

NOTICE TO

Thomas Wilson Stewart Woodside and Anita Woodside 33 Gobbins Road, Island Magee, Larne, Co Antrim, BT40 3TX (represented by their agents the Letting Shop, 7 West George Street, Kilmarnock) ('The landlord')

Whereas in terms of their decision dated 23rd February 2009, 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 65% 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 are executed by Jacqueline Carol Taylor, Solicitor, chairperson of the Private Rented Housing Committee on 23rd February 2009 before this witness:-

E Shedden

witness

J Taylor — chairperson

Elizabeth Shedden

65, High Street, Irvine.