



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

prhp Ref: PRHP/DD11/3/11

Re: Property at 3 Hill Terrace, Arbroath, Angus, DD11 1AH ("the Property")

The Parties:-

EWAN GRANT DAVIES residing at 5 Esk Gardens, Carnoustie, Angus, DD7 6HG ("the Landlord")

MISS ELINOR JAMIESON formerly residing at 3 Hill Terrace, Arbroath, Angus, DD11 1AH ("the Tenant")

Notice is hereby given to Angus 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.

The date of service upon the parties of the decision under Section 26 of the Act is hereby certified to be *14th Sept. 2011.*

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 *6/9/11* before this witness:-

Lindsay Johnston _____ witness

E K Miller _____ Chairman

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



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

prhp Ref: PRHP/DD11/3/11

Re: Property at 3 Hill Terrace, Arbroath, Angus, DD11 1AH ("the Property")

The Parties:-

MISS ELINOR JAMIESON formerly residing at 3 Hill Terrace, Arbroath, Angus, DD11 1AH ("the Tenant")

EWAN GRANT DAVIES residing at 5 Esk Gardens, Carnoustie, Angus, DD7 6HG ("the Landlord")

Decision

The Private Rented Housing Committee, having made such enquiries as were fit for the purposes of determining whether the Landlord has complied with the Repairing Standard Enforcement Order ("RSEO") in relation to the Property concerned and taking account of the subsequent inspection of the Property by the Surveyor Member, determined that the Landlord had failed to comply with the terms of the RSEO. The Committee resolved not to serve a Rent Relief Order at the present time. The Committee resolved to report the matter to the Local Authority.

Background

1. By way of a Decision dated 5th April 2011, the Private Rented Housing Committee had issued a determination that the Landlord had failed to comply with the duties imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 ("the Act").
2. The Committee had placed an RSEO on the Property, also dated 5th April 2011. The RSEO required the Landlord:-
 - (a) To repair or replace the wall tiles within the wet room to ensure no further water leakage and damp penetration to the bedroom;
 - (b) To carry out such works to the wet room floor as are necessary to ensure that there is a fall towards the drain and that the pooling of water within the wet room is restricted;
 - (c) To produce a current and clear Gas Safety Certificate over the Property and to exhibit this to the Committee;
 - (d) To carry out such works as are necessary to the front bedroom window to allow it to be capable of being opened and shut smoothly;
 - (e) To carry out repair works to the front bedroom and lounge windows to repair the rot damaged areas and to repaint the windows after this has been done.
3. Subsequent to the issuing of the RSEO, a further inspection was carried out by Mr David Godfrey, Surveyor Member of the Committee on 24th June 2011. The Landlord was present. The Tenant was not present having previously vacated the Property. The Surveyor Member inspected the wet room within the Property. The tiles had been

removed to expose the pipework to the shower but there had been no proper repair or replacement of the wall tiles. The damaged plasterwork in the adjacent bedroom caused by water egress from the wet room had been repaired although redecoration still required to be carried out.

The Surveyor Member noted that the floor of the wet room had still to be altered to allow water from the shower to drain properly.

The Surveyor Member noted that the Gas Safety Certificate had still to be produced by the Landlord as required by the RSEO.

The Surveyor Member also noted that no works had been carried out to the windows.

4. The Surveyor Member subsequently issued a Report to the Committee highlighting the lack of works that had been carried out to comply with the RSEO. The Committee considered the terms of the re-inspection report and concluded that the RSEO could not be lifted. In terms of Section 26(2) of the Act, the Committee noted that where the Landlord has failed to comply with the Repairing Standard Enforcement Order, the Committee must (a) serve notice of the failure on the local authority; and (b) decide whether to make a Rent Relief Order. In terms of the Notice to the local authority, the Committee noted that this was a mandatory requirement and accordingly resolved that the Chairman would arrange for the local authority to be written to. The Committee decided, after discussion, not to make a Rent Relief Order. The Property was currently vacant and therefore there would be no benefit in a Rent Relief Order being issued. Section 28(5) of the Acts makes it an offence for the Landlord to enter into a tenancy or occupancy arrangement at any time during which a Repairing Standard Enforcement Order has effect. The Committee noted that this meant that the Property could not be re-let at the present time.

Decision

5. The decision of the Committee was unanimous.

Right of Appeal

6. **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

7. 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 K Miller

Signed Date..... *6/9/11*
Chairperson