

Rent Relief Order

Ordered by the Private Rented Housing Committee

Case Reference Number: PRHP/IV40/97/10

Property at Corrary Farm House, Glenelg, By Kyle of Lochalsh, IV40 8JX ("the property")

The Parties:-

**Mr Douglas Hawthorn and Ms Katherine Macarthur residing at Corrary Farm House, Glenelg,
By Kyle of Lochalsh, IV40 8JX ("the tenants")**

And

**William Young of Ritson Young, Chartered Accountants, 28 High Street, Nairn, IV12 4AU as
judicial factor on the Estates of the Corrary Partnership, a partnership having its principal
place of business at Corrary, Glenelg, By Kyle of Lochalsh, IV40 8JX ("the landlords")**

**NOTICE TO: William Young of Ritson Young, Chartered Accountants, 28 High Street, Nairn,
IV12 4AU as judicial factor on the Estates of the Corrary Partnership, a partnership having its
principal place of business at Corrary, Glenelg, By Kyle of Lochalsh, IV40 8JX**

In terms of their decision dated 6th July 2011, the Private Rented Housing Committee ("the Committee") determined in terms of Section 26(1) of the Housing (Scotland) Act 2006 ("the 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 £180 per calendar month 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.

J Bauld

James Bauld, Chairperson
Private Rented Housing Committee

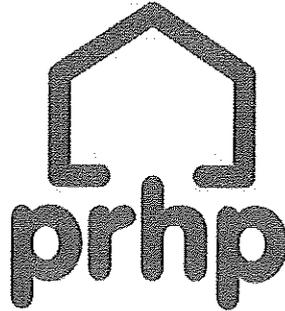
Date 6 July 2011

R King

..... (Sign)
Witness

Date 6 July 2011

Name: Robina King
Address: 7 West George Street, Glasgow, G2 1BA
Designation: LEGAL SECRETARY



Statement of Decision of the Private Rented Housing Committee

(Hereinafter referred to as "the Committee")

Under Section 26(1) of the Housing (Scotland) Act 2006

Case Reference Number: PRHP/IV40/97/10

Property at Corrary Farm House, Glenelg, By Kyle of Lochalsh, IV40 8JX ("**the property**")

The Parties:-

Mr Douglas Hawthorn and Ms Katherine Macarthur residing at Corrary Farm House, Glenelg, By Kyle of Lochalsh, IV40 8JX ("**the tenants**")

And

William Young of Ritson Young, Chartered Accountants, 28 High Street, Nairn, IV12 4AU as judicial factor on the Estates of the Corrary Partnership, a partnership having its principal place of business at Corrary, Glenelg, By Kyle of Lochalsh, IV40 8JX ("**the landlords**")

The Committee comprised:-

Mr James Bauld - Chairperson

Mrs Sara Hesp - Surveyor member

Mr Andrew McKay - Housing member

Background

1. 8th February 2011, 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 2006 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:-

- a) carry out repairs to the roof to make it wind and water tight.
 - b) carry out repairs to the porch to make it wind and water tight.
 - c) effect repairs to the chimneys within the property to ensure that no smoke escapes from the chimneys into the property and that the chimneys are properly lined.
 - d) remove and replace the toilet bowl and cistern.
 - e) effect all necessary repairs to the windows to make them wind and water tight.
3. The Committee ordered that the works specified in the RSEO were to be carried out and completed within 12 weeks of the date of the Order. The RSEO was effectively served on the landlords.
 4. On 13th May 2011 a further inspection of the property was conducted for the purpose of ascertaining whether the repairs required by the RSEO had been completed. This inspection was carried out by Mrs Sara Hesp the Surveyor Member of the Committee.
 5. During the re-inspection of the property, one of the tenants was present but the landlords were neither present nor represented. During the re-inspection of the property, it was noted that none of the repairs required in terms of the RSEO had been effected.
 6. A re-inspection report was prepared and dated 18th May 2011. A copy of that report was sent to both the tenants and the landlords by letter dated 24th May 2011. The tenants and the landlords were invited to comment upon the re-inspection report.
 7. By letter dated 3rd June 2011, the solicitors acting for the tenants responded to the Committee. They confirmed that they agreed with the terms of the re-inspection report and that they wished the Committee to make a Rent Relief Order.
 8. The landlord also wrote to the Committee by letter dated 3rd June 2011. The landlord acknowledged a copy of the re-inspection report. The landlord did not indicate that any of the works required by the RSEO had been completed and further indicated that he was now taking steps to seek to recover possession of the property. In his letter he indicates that he has been unable to comply with the Order because of the lack of possession of the property and that possession of the property is necessary to comply with Section 28(2)(b) of the 2006 Act. He indicates that he has a report indicating that the extensive works required cannot be safely undertaken with tenants in situ.
 9. Copies of the responses from the landlords and the tenants were examined by all members of the Committee.
 10. The Committee then considered whether a Rent Relief Order should be made in terms of Section 27 of the Act. The Committee determined that in all the circumstances of this case such an Order should be made given the landlord's failure to comply fully with the terms of the RSEO and given the landlord's failure to provide any reasonable excuse for this. The Committee did not accept that the works required could not be undertaken with tenants in situ. The Committee also noted that no report had ever been produced to them either at the original hearing or along with the letter of 3rd June sent by the landlord.
 11. The Committee then considered the amount by which any rent payable under the tenancy in question should be reduced. In doing so the Committee considered the impact of the outstanding repairs upon the tenant's enjoyment of the property. In all the circumstances the Committee determined that an appropriate reduction in rent would be 90% of the contractual monthly rent, namely a reduction in rent of £180 per month. The Committee considered that the Rent Relief Order should be effective from 28 days after the last date on which a decision to make the Rent Relief Order may be appealed under Section 64 of the 2006 Act.

Decision

- 12. The Committee having made such enquiries as it saw fit for the purposes of determining whether the landlords had complied with the RSEO in relation to the property concerned and taking full account of all the evidence obtained at the inspection and of the representations made by the parties determined that the landlords had failed to comply with the RSEO in terms of Section 26 (1) of the Housing (Scotland) Act 2006 and that notice of failure be served upon the local authority in which the property is situated.
- 13. The Committee proceeded to make a Rent Relief Order in terms of Section 27 of the Act which Order shall 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 Act.
- 14. The decision of the Committee was unanimous.

Rights of Appeal

- 15. 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
- 16. The appropriate respondent in such appeal proceedings is the other Party to the proceedings and not the PRHP or the Committee which made the decision

Effect of Section 63

- 17. 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.
- 18. 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

Date 6 July 2011

Chairperson

Signature of Witness.....

R King

Date 6 JULY 2011

Name:

ROBINA KING

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

Designation:

LEGAL SECRETARY