



**Repairing Standard Enforcement Order**  
**Ordered by the Private Rented Housing Committee**

prhp Ref: PRHP/ RP/13/14

Re: 20 Fintry Road, Dundee, DD4 9EJ ("the Property")

Title No: ANG47291

The Parties:-

ELIZABETH DOLAN residing at 20 Fintry Road, Dundee, DD4 9EJ ("the Tenant")

CALUM MACLEAN WATT care of CPW Property Investments, Centrum Offices 38 Queen Street, Glasgow, G1 3DX (represented by his agent Mr John Haughey) ("the Landlord")

**NOTICE TO CALUM MACLEAN WATT ("the Landlord")**

Whereas in terms of their decision dated 18 September 2013 to comply with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 and in particular that the landlord has failed to ensure that the property is:-

- (a) The structure of and exterior of the Property (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order;
- (b) The installations in the Property for the supply of water, gas and electricity and for sanitation, space heating and heating water are in a reasonable state of repair and in proper working order;

the Private Rented Housing Committee now requires the landlord to carry out such work as is necessary for the purposes of ensuring that the house concerned meets the repairing standard and that any damage caused by the carrying out of any work in terms of this Order is made good.

In particular the Private Rented Housing Committee requires the landlord:-

- a) To carry out such works to the boiler as are necessary to ensure compliance with the repairing standard. Upon completion of such works the Landlord shall exhibit to the Committee a gas safety certificate from a suitably qualified gas engineer confirming that the gas appliances within the property are all in property working order and comply with the relevant regulations.
- b) To carry out such works for repair or replacement the rhones and downpipes at the Property to ensure that they comply with the repairing standard.

The Private Rented Housing Committee order that the works specified in this Order must be carried out and completed within the period of 4 weeks from the date of service of this Notice.

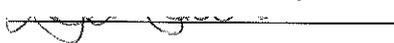
**A landlord or a tenant aggrieved by the decision of the Private Rented Housing Committee may appeal to the Sheriff by summary application within 21 days of being notified of that decision.**

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, 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.

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 18 September 2013 before this witness:-

**L Johnston**

 witness

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

**E Miller**

  
Ewan Kenneth Miller, Chairman



## Statement of decision of the Private Rented Housing Committee under Section 24 (1) of the Housing (Scotland) Act 2006

prhp Ref: PRHP/RP/13/14

Re: 20 Fintry Road, Dundee, DD4 9EJ ("the Property")

### The Parties:-

ELIZABETH DOLAN residing at 20 Fintry Road, Dundee, DD4 9EJ ("the Tenant")

CALUM MACLEAN WATT c/o CPW Property Investments, Centrum Offices 38 Queen Street, Glasgow, G1 3DX (represented by his agent Mr John Haughey) ("the Landlord")

### Decision

The Committee, having made such enquiries as it saw fit for the purposes of determining whether the Landlord has complied with the duty imposed by Section 14 (1)(b) in relation to the house concerned, and taking account of the evidence led at the hearing, determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

### Background

1. By application dated 15 May 2013 the Tenant applied to the Private Rented Housing Panel for a determination of whether 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 application by the Tenant stated that the Tenant considered that the Landlord had failed to comply with his duty to ensure that the house meets the repairing standard and in particular that the Landlord had failed to ensure that:-
  - (a) The Property is wind and watertight and in all other respects reasonably fit for human habitation;
  - (b) The structure of and exterior of the Property (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order;
  - (c) The installations in the Property for the supply of water, gas and electricity and for sanitation, space heating and heating water are in a reasonable state of repair and in proper working order;
3. By letter dated 20 June 2013 the President of the Private Rented Housing Panel intimated a decision to refer the application under Section 22 (1) of the Act to a Private Rented Housing Committee.
4. The Private Rented Housing Committee served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon both the Landlord and the Tenant.
5. Following service of the Notice of Referral the Tenant made no further written representation to the Committee other than her original application dated 15 May 2013. The Landlord made no written representations to the Committee.

6. The Private Rented Housing Committee comprising Mr E K Miller (Chairman and Legal Member), Mr D Godfrey (Surveyor Member) and Mr J Wolstencroft (Housing Member) inspected the Property on the morning of 10 September 2013. The Tenant was present during the inspection. Mr Haughey was present during the inspection and represented the Landlord.
7. Following the inspection of the Property the Private Rented Housing Committee held a Hearing at Douglas Community Centre, Douglas, Dundee. The Tenant was not present at the Hearing nor represented. Mr Haughey was present and represented the Landlord at the Hearing.
8. The Tenant, during the course of the inspection, submitted that the boiler made a grinding noise when it was switched on. She had complained of this on several occasions to the Landlord. A complaint in relation to the kitchen radiator had, however, now been dealt with. The Tenant also felt that the rhones and downpipes, the back door and the windows all required attention and were looking shabby.
9. Mr Haughey for the Landlord submitted that there had been some financial difficulties within the company but these were in the course of being addressed. He accepted that some works were required and confirmed that he would attend to these. He was happy to be guided by the Committee as to what these works were. He felt that whilst the door and windows would benefit from painting this was primarily for decorative purposes rather than being a required repair.

#### **Summary of the issues**

10. The issues to be determined are:-
  - (1) Whether the boiler at the Property was in property working order and met the repairing standard.
  - (2) Whether the kitchen radiator was in proper working order and met the repairing standard.
  - (3) Whether the back door met the repairing standard
  - (4) Whether the outside windows required painting or other remedial work in order to meet the repairing standard.
  - (5) Whether the rhones and downpipes were in proper working order and met the repairing standard.

#### **Findings of fact**

11. The Committee found the following facts to be established:-
  - The boiler did make a grinding sound and it was clear it was not in proper working order at the present time.
  - It was agreed that the kitchen radiator was working and that this did not require to be dealt with.
  - The Committee determined that the back door did not need painting to ensure compliance with the repairing standard.
  - The Committee determined that the windows did not require to be painted to ensure compliance with the repairing standard.

- The Committee was satisfied that the rhone pipes and downpipes at the property were not in proper working order and required to be repaired or replaced to ensure compliance with the repairing standard.

### **Reasons for the decision**

12. The Committee based its decision primarily on the evidence obtained during the course of its inspection of property. Upon the Committee's arrival at the property the Tenant turned on the boiler. Although no noise occurred the first time, the second time the Tenant switched on the boiler a loud grinding noise came from it. The Committee was of the view that the pump in the boiler was not in proper working order and this would require to be replaced. If this did not resolve the problem, then the Landlord would require to carry out such other works as were necessary to ensure that the boiler was in proper working order. Mr Haughey advised the Committee that there was a gas safety certificate for the property but it was approaching the point where it required renewal. The Committee was satisfied that it would be appropriate, once the repair works had been carried out, for an updated gas safety certificate to be provided to the Committee.

It was noted by all parties that the kitchen radiator was now working and therefore this did not need to be addressed.

The Committee inspected the back door of the property. The Committee accepted that the back door looked shabby and would benefit from a coat of paint. The Committee also noted that the base of the surrounding frame was partially rotted and in generally poor condition. However, the door itself was properly wind and water tight and opened and closed in the normal fashion. Whilst the Committee would encourage the Landlord to carry out some painting and repair work to the door, it was not strictly necessary to ensure compliance with the repairing standard. The Landlord should, however, note that in the opinion of the Committee it would not be long before works were required given the deteriorating condition of the door and it would be prudent to attend to these now.

The Committee also considered the windows. Again, they appeared to be wind and watertight and capable of opening and closing properly. The windows were not in the best of condition and would, again, benefit from a coat of paint. Again, however, this was decorative and not essential. The Committee would however encourage the Landlord to do the work as it would extend the lifespan of the windows if this were done.

The Committee examined the rhones and downpipes at the property. It was a dry day and so the Committee could not determine definitively whether or not these were leaking. However they appeared in very poor condition and the Committee had no reason to doubt the Tenant's assertion that they were leaking. The Committee was satisfied that the rhones and downpipes were past the end of their economic life. It would be appropriate for the Landlord to carry out such works of repair or replacement as were appropriate to meet the repairing standard.

The Committee then considered a timescale for the works the Landlord required to carry out. The Landlord's agent indicated any works required would not take long for them to complete and they could do this within a matter of weeks. Having considered the matter the Committee was satisfied that a period of 4 weeks would be sufficient.

### **Decision**

13. The Committee accordingly determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.
14. The Committee proceeded to make a Repairing Standard Enforcement Order as required by section 24(1).
15. The decision of the Committee was unanimous.

**Right of Appeal**

16. 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**

17. 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 ..... **E Miller** ..... Date..... *22/6/2013* .....  
Chairperson