



**Decisions of Private Rented Housing Committee
under Section 26 (1) and 27 (2) of the Housing (Scotland) Act 2006**

Statement of Decisions of the Private Rented Housing Committee

(Hereinafter referred to as “the Committee”)

Under Section 26(1) and 27(2) of the Housing (Scotland) Act 2006

Case Reference Number: PRHP/RP/16/0114

Re : Property at 25 (Attic 2) Mid Road, Dundee DD3 7RN (“the Property”)

Title No: ANG50800

The Parties:-

**Stephanie Alexander, 25 (Attic 2) Mid Road, Dundee DD3 7RN (“the Tenant”)
(represented by her agent Daniel Hughes, Flat 3R, 5 Canning Street, Dundee DD3
7RZ)**

**Homespares Limited (also known as Homespares (GJH)), 3 Windmill Road, St
Andrews, Fife KY16 9JJ (“the Landlord”)
(represented by their agents Pavillion Properties Ltd, 86 Bell Street, Dundee DD1
1HN)**

The Committee comprised:-

Mr David Bartos - Chairperson
Ms Sara Hesp - Surveyor member

Decisions

1. The Committee decides that the Landlord has failed to comply with the Repairing Standard Enforcement Order dated 1 July 2016.
2. The Committee decides to make a rent relief order reducing the rent payable under the lease of the Property between the Landlord and the Tenant in force at the present date by fifty per cent (50%).

Background:-

1. The Committee issued a Repairing Standard Enforcement Order (“RSEO”) in respect of the Property dated 1 July 2016. The works in the RSEO required to be completed by 28 days from the date of service of the RSEO on the Landlord. The RSEO was served on the Landlords on or about 4 July 2016. On 13 September 2016 the Committee’s Surveyor member carried out a reinspection of the Property. She found that requirements (a) and (d)

of the RSEO had been carried out but that parts (b) and (c) had not been carried out. She produced a Re-inspection Report dated 16 September 2016 which is referred to for its terms.

2. By letters to the Landlord and Tenant issued on or about 20 September 2016 the Committee's clerk intimated to the Landlord and to the Tenant the said re-inspection report, and invited them to make written representations to the Committee on whether there had been failure to comply with the RSEO.
3. The Tenant made written representations dated 3 October 2016 stating that she agreed with the Re-inspection Report. There were no representations from the Landlord.
4. Given the provisions of regulation 16 of the Private Rented Housing Panel (Tenant and Third Party Applications) (Scotland) Regulations and the absence of written agreement from the Landlord to dispense with an oral hearing, the Committee decided that a further hearing was necessary to determine whether there had been a failure to comply with the RSEO and if so whether a rent relief order should be made.
5. By letters to Landlord and Tenant sent on or about 14 October 2016 the further hearing was fixed for 3 November 2016 at 10 a.m. at the Kirkton Community Centre, Dundee. The letter to the Tenant was sent by first class post. The letters to the Landlord and also to the Landlord's agents notifying the date and venue were sent recorded delivery and both were signed for on 17 October 2016. There was no further communication from either party or any agent to the Committee.

The Evidence

6. The evidence before the Committee consisted of: -
 - The RSEO
 - The re-inspection report dated 16 September 2016
 - Written representations from the Tenant dated 3 October 2016

The Hearing

7. The Committee held a hearing at the time and place fixed. There was no appearance by or on behalf of either the Landlord or the Tenant. At 10.20 hrs the Committee proceeded to make its decisions.

Findings in fact

8. Having considered all the evidence, the Committee found the following facts to be established:-
 - (a) The Committee issued a RSEO dated 1 July 2016 which was served on the Landlord on or about 4 July 2016. The Landlord had 28 days from

the date of service to carry out and complete the works stated in the RSEO.

- (b) The terms and photographs of the re-inspection report (apart from the "Comments") dated 16 September 2016 are adopted and incorporated herein. They describe work carried out by the Landlord since the RSEO covering requirements (a) (heater in bedroom) and (d) (front door seal) and the situation at the Property at the date of reinspection. The situation so described has not changed since the date of reinspection.
- (c) No domestic Electrical Installation Condition Report as required by part (c) of the RSEO has been produced to the Committee or the Private Rented Housing Panel of which the Committee forms part.

Reasons for Decisions

9. The Committee accepted the re-inspection report in relation to the RSEO dated 16 September 2016. The Tenant agreed with the report in her written representations. No representations were made by the Landlord disagreeing with the report.
10. There was no evidence before the Committee that the situation at the Property had changed since 16 September 2016. In these circumstances the Committee inferred that the replacement of the heater in the living room to comply in requirement (b) of the RSEO still remained to be done. Additionally the Electrical Installation Condition Report had not been lodged with the Private Rented Housing Panel for onward transmission to the Committee. This was requirement (c) in the RSEO. Accordingly the Committee made the findings of fact noted above.
11. The principal issue was whether the Committee should find that the Landlord had failed to comply with requirements (b) and (c) of the RSEO.
12. The Committee was in no doubt that there had been a failure to comply with requirements (b) and (c) of the RSEO.
13. The Committee did not consider that satisfactory progress had been made in carrying out the work required by the RSEO. No reason whatever was had been given to or was apparent to the Committee explaining why an adequate heater could not have been installed into the Property by 3 November particularly with the onset of the second half of autumn. Equally there was no explanation of the failure to provide the electrical report. Given the absence of satisfactory progress there was no duty on the Committee under section 25(3) to vary the time limit for carrying out the work. Accordingly the Committee made the first decision stated above in terms of section 26(1) of the 2006 Act.
14. Where a committee has decided that a landlord has failed to comply with an RSEO it must decide whether to make a rent relief order and if so the extent

or rent to be deduced under the order (Sections 26(1) and 27(1)of the 2006 Act).

- 15. The Committee considered the written representation of the Tenant. She sought rent relief at the maximum rate of 90%. There was no representation from the Landlord despite the possibility of such rent relief having been mentioned in the letters issued by the Privated Rented Housing Panel on both 20 September and 16 October 2016.
- 16. The living room is not entirely without any heating. Rather the existing heater is insufficient to heat the room adequately. As a result the Tenant may be left to incur further cost through providing her own heaters to cure the deficiency. The failure to obtain the Electrical Installation Condition Report was inexplicable but there was nothing to indicate that the electrical installation was hazardous. Looking at the matter in the round, the Committee made a rent relief order reducing the rent by 50%. The decisions of the Committee set out above were unanimous.
- 17. The Landlord is reminded that it is a criminal offence to enter into a new tenancy or occupancy arrangement for the Property while the RSEO continues to have effect. The Committee will serve notice of these decisions on Dundee City Council.

Rights of Appeal and Effect of Section 63 of the 2006 Act

- 18. A landlord or tenant aggrieved by these decisions of the Committee may appeal to the Sheriff by summary application within 21 days of being notified of that decision.
- 19. Unless the lease or tenancy between the parties has been brought to an end, the appropriate respondent in such appeal proceedings is the other party to the proceedings and not the Private Rented Housing Panel whose Committee which made the decision.
- 20. Where such an appeal is made, the effect of the decisions, including the Rent Relief Order is suspended until the appeal is abandoned or finally determined.
- 21. Where the appeal is abandoned or finally determined by confirming the decision, the decisions, including the Rent Relief Order are to be treated as having effect from the day on which the appeal is abandoned or so determined.

Signed **D Bartos** Date: 8 November 2016
 David Bartos, Chairperson

Signature of Witness **T Whitelaw**

Date 8 Nov 16 Name **T Whitelaw**

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Rent Relief Order

Ordered by the Private Rented Housing Committee

Case Reference Number: PRHP/RP/16/0114

Re : Property at 25 (Attic 2) Mid Road, Dundee DD3 7RN ("the Property")

Title No: ANG50800

The Parties:-

**Stephanie Alexander, 25 (Attic 2) Mid Road, Dundee DD3 7RN ("the Tenant")
(represented by her agent Daniel Hughes, Flat 3R, 5 Canning Street, Dundee DD3 7RZ)**

**Homespares Limited (also known as Homespares (GJH)), 3 Windmill Road, St Andrews, Fife KY16 9JJ ("the Landlord")
(represented by their agents Pavillion Properties Ltd, 86 Bell Street, Dundee DD1 1HN)**

NOTICE TO ("the Landlord")

Whereas in terms of their decision dated 8 November 2016 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 Property 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 Property by an amount of 50% 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 type written on this page are executed by David Bartos, Advocate, Advocates Library, Parliament House, Parliament Square, Edinburgh EH1 1RF, chairperson of the Private Rented Housing Committee at Edinburgh on 8 November 2016 before this witness:-

T Whitelaw witness

D Bartos chairperson

name in full

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PRHP Re-inspection report



Mid Road elevation – 13 September 2016

Property: 25 (Attic 2) Mid Road, Dundee DD3 7RN

Ref no: PRHP/RP/16/0114

Surveyor: Sara Hesp LLB(Hons) BA(Hons) MRICS ACI Arb

Access:

I re-inspected the subject property on 13 September 2016 at 16.30. Access was provided by the tenant's representative, Daniel Hughes. Neither the tenant nor the landlord was present.

The weather was dry and warm.

Purpose of re-inspection:

The purpose of this re-inspection was to investigate whether work required under the Repairing Standard Enforcement Order dated 1 July 2016 had been completed.

The property had been previously inspected by a Committee of the Panel on 20 June 2016.

Under the Repairing Standard Enforcement Order, the landlord had been required:

a) To repair or replace the electrical panel heater in the bedroom of the Property so as to ensure that the heater has a properly working timer mechanism and has an adequate connection for the supply of electricity to it; to fix said heater securely to the wall and to make good;

b) to replace the electrical panel heater in the living room of the Property with one of heating output to allow the room to be used with reasonable comfort and having an adequate connection for the supply of electricity to it; and to carry out any ancillary work to the decoration of the room to make good;

c) thereafter, to produce to the Committee a domestic electrical installation condition report from an electrician who is, or is an employee or director of, a contractor registered with the National Inspection Council for Electrical Installation Contracting (NICEIC) or with Scotland's Electrical Trade Association (SELECT) under the Electrical Installations category, with the said report setting out any works necessary to put all electrical installations in the Property into a reasonable state of repair and into proper working order; and to carry out all works, if any, recommended in the above electrical installation condition report;

d) to carry out such works as are necessary to the front doorframe of the Property to seal the gap between the frame and the front door to eliminate any draught.

The landlord was required to carry out and complete the works specified within 28 days of the date on which the Order was served.

Work carried out:

a) The landlord has fixed the heater in the bedroom to the wall beneath the window in a secure fashion and has provided a socket in a position to allow provision of an electricity supply to it. A timing mechanism has been supplied.



Electric panel heater – bedroom
20 June 2016

Electric panel heater – bedroom
13 September 2016

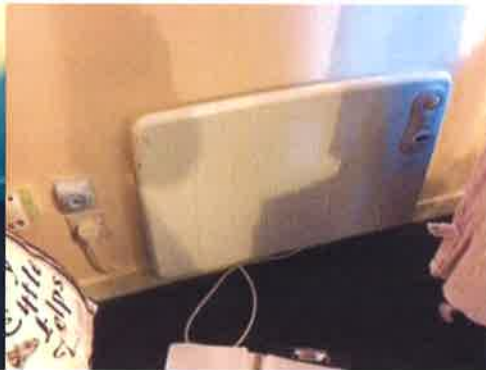


Electric socket and timing mechanism - bedroom
13 September 2016

b) A socket has been provided in the living room to allow the existing electric panel heater to be connected to the supply and a timing mechanism has been provided.



Electric panel heater – living room
20 June 2016



Electric panel heater – living room
13 September 2016

d) The draught proofing to the front door frame has been properly attached and the space at the base has been considerably reduced, although a very small gap remains.



Front door frame (inside)
20 June 2016

Front door frame (inside)
13 September 2016



Front door frame – 20 June 2016 Front door frame – 13 September 2016

Outstanding matters:

b) The electrical panel heater in the living room of the Property has not been replaced with a model providing a higher output .

c) An Electrical Installation Condition Report prepared by a suitably competent individual has not been provided.

Comments:

This report will be distributed to the parties and their representatives for their comment. It will be referred afterwards to the Committee of the Private Rented Housing Panel for their consideration and further action.

S Hesp
Surveyor Member
Private Rented Housing Panel
16 September 2016