



Rent Relief Order

Ordered by the Private Rented Housing Committee

prhp Ref: PRHP/IV2/118/12

Re: Property at 1 Railway Cottages, Culloden Moor, Inverness, IV2 5EE ("the Property")

The Parties:

MRS ELIZABETH WATT residing at 1 Railway Cottages, Culloden Moor, Inverness, IV2 5EE ("the Tenant")

DAVID PEARL c/o Pearl & Coutts Limited, Third Floor, 9 White Lion Street, London ("the Landlord")

NOTICE TO DAVID PEARL ("the Landlord")

Whereas in terms of their decision dated 22 April 2013 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 90% 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 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 22 April 2013 before this witness:-

S Clack witness

E Miller Chairman

Sheila Clack
Secretary
Thorntons Law LLP
Whitehall House
33 Yeaman Shore
Dundee
DD1 4BJ



Statement of decision of the Private Rented Housing Committee under Sections 26 and 27 of the Housing (Scotland) Act 2006

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The Parties:-

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DAVID PEARL c/o Pearl & Coutts Limited, Third Floor, 9 White Lion Street, London ("the Landlord")

Background

1. On 18 September 2012 The Private Rented Housing Committee ("the Committee") issued a Determination which decided that the Landlord had failed to comply with the duty imposed by Section 14(1) 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. The RSEO made by the Committee required the Landlord:-
 - (a) To carry out a general overhaul of the roof, chimney pots and gable ends of the Property sufficient to render it properly wind and watertight and compliant with the repairing standard. In this regard, and without prejudice to the foregoing generality, the Committee require the Landlord to obtain a report on the condition of the roof from a reputable roofing company and to exhibit this to the Committee. The Committee require the Landlord to carry out any works specified in the said report sufficient to render the roof properly wind and watertight and otherwise compliant with the repairing standard.
 - (b) To repair or replace the windows sufficient to ensure that they are capable of opening and closing properly, are properly wind and watertight and otherwise meet the repairing standard.
 - (c) To repair or replace the front and rear external doors sufficient to render them properly wind and watertight and capable of opening and closing properly.
 - (d) To carry out such works as are necessary to the electrical system within the Property to allow the exhibition to the Committee of a clear periodic inspection report from a suitably qualified electrician confirming that the Property complies with the relevant electrical regulations.
 - (e) To ensure that the immersion heater in the kitchen at the Property is in proper working order and capable of use by the Tenant.
 - (f) To extend the cupboard housing the hot water tank sufficient that the Tenant can open and close the door of the cupboard housing the said tank properly.
 - (g) To obtain and exhibit to the Committee a report on the Property from a reputable damp and timber specialist and to carry out such works as are recommended by the report and as are necessary to ensure that the Property is free from damp penetration and timber damage/decay.

- (h) To install a hardwired interlinked smoke detection system compliant with the relevant safety regulations.
2. The Committee had ordered in the RSEO that the works specified were to be carried out and completed within a period of 4 months.
 3. On 18 March 2013, Mr C Hepburn, the Surveyor Member of the original Committee, carried out a reinspection of the Property. The Tenant was present. The Landlord was not present nor represented.
 4. It was readily apparent to the Surveyor Member that no works at all had been carried out since the original inspection and issuing of the RSEO. During the course of the reinspection, the Tenant advised the Surveyor that no tradesmen or other professionals had been in touch with her in relation to the works required under the RSEO. The only contact she had had from the Landlord was a letter advising that the Property was to be put to auction and to be sold.

The Committee had received correspondence from the Landlord direct in this regard. The Landlord had advised he did not have sufficient funds to carry out the works and was therefore intending to sell the Property at auction.

5. The Committee then considered what steps to take. In terms of Section 26(1) of the Act it was for the Committee to decide whether a landlord had complied with an RSEO made by the Committee. In terms of sub-section (2), where the Committee decides that a landlord has failed to comply with an RSEO, the Committee must (a) serve notice of the failure on the local authority; and (b) decide whether to make a Rent Relief Order ("RRO").
6. The Committee, after discussion, accepted that it was clear, given that no works had been undertaken at all, that the Landlord had failed to comply with the RSEO. Accordingly the Committee were obliged to service notice of the failure on the local authority and resolved to do so.
7. The Committee then decided whether or not to make an RRO. The Committee accepted that the Landlord may not have sufficient funds to carry out the works at the Property. However it was apparent that the Landlord had been collecting rent from this Property for a considerable period of time and had carried out little, if any, maintenance. Accordingly the Committee was not satisfied that the lack of Landlord's funds was an appropriate reason not to serve an RRO. The Committee considered the condition of the Property. One of the principal concerns of the Committee was that there were a number of serious safety issues. The roof of the Property was in very poor condition. It was not clear that the electrical installation within the Property was in proper condition. The Tenant had complained of getting electric shocks from the immersion heater. The Committee was also concerned that there was damp in the Property and that there was not a proper hardwired interlinked smoke detection system compliant with the relevant Fire Regulations.

The Committee was of the view that a 90% RRO was appropriate. The Tenant suffered considerable discomfort due to the lack of repairs carried out by the Landlord and there were serious health and safety risks as well. The Landlord had not shown any indication of addressing the problems in any material way despite having received rent for many years. Accordingly the Committee was more than satisfied that a 90% RRO was the appropriate measure to take.

8. The Committee also considered the terms of Section 28 of the Act. Sub-section (1) specifies that a Landlord who, without reasonable excuse, fails to comply with an RSEO commits an offence. The indication from the Landlord was that he was unable to carry out the works due to a lack of funds. Whilst the Committee accepted this may be the reason why the Landlord was not capable of doing the works, it was not a reasonable excuse. As highlighted above, the Landlord had collected rent over many years and had clearly failed

to apply any of this to maintaining the Property. There had been an ongoing failure for a number of years to maintain the Property to the appropriate standard. The repairs required were not issues that would have arisen only recently. Accordingly, in the circumstances, the Committee was of the view that Section 28(1) had been breached and therefore also resolved to report the matter to the Police for consideration for prosecution.

Decision

9. The Committee determined that in terms of the Act the Landlord had failed to comply with the RSEO. The Committee determined to serve a Notice of Failure to Comply with the RSEO on the relevant local authority within which the Property was situated and to report the matter to the Police for consideration for prosecution. The Committee were also satisfied that it was appropriate to grant an RRO at 90% in terms of the Act.
10. The decision of the Committee was unanimous.

Right of Appeal

11. 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

12. 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..... *22/4/2013*
Chairperson