



Rent Relief Order

Ordered by the Private Rented Housing Committee

prhp Ref: prhp/RP/13/0076

Re : 38 Bridgend, Duns, Berwickshire TD11 3EX (hereinafter referred to as "the house")

The Parties:

Joseph Knowles, 38 Bridgend, Duns, Berwickshire TD11 3EX ("the Tenant")

and

Andrew David Tait, sometime 11 North High Street, Duns, thereafter Purleyknowe, Fernieflatt, Kineff, Montrose and now Glenview, High Street, Earlston ("the Landlord")

NOTICE TO ANDREW DAVID TAIT ("the Landlord")

Whereas in terms of their decision dated 28 August 2014, 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 Act reducing the rent payable under the tenancy for the house by an amount of **90% (ninety per cent)** 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 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 typewritten on this page are executed by George Barrie Clark, solicitor, Lasswade, chairperson of the Private Rented Housing Committee at Lasswade on 28 August 2014 before this witness Valerie Elizabeth Jane Clark, Droman House, 5 School Brae, Lasswade, Midlothian:-

V Clark witness

G Clark chairman



Statement of decision of the Private Rented Housing Committee under Section 26 (2) of the Housing (Scotland) Act 2006

prhp Ref: prhp/RP/13/0076

Re : Property at 38 Bridgend, Duns, Berwickshire TD11 3EX ("the Property")

The Parties:-

Joseph Knowles, residing at 38 Bridgend, Duns, Berwickshire TD11 3EX ("the Tenant")

Andrew David Tait, residing sometime at 11 North High Street, Duns, thereafter Purleyknowe, Fernieflatt, Kineff, Montrose and now at Glenview, High Street, Earlston TD4 6DE ("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 Repairing Standard Enforcement Order made by the Committee and served on 6 March 2014 in relation to the Property, determined that the Landlord had failed to comply with the Repairing Standard Enforcement Order and decided to make a Rent Relief Order under Section 27 of the Act.

Background

1. By application dated 11 August 2013 and received by the Private Rented Housing Panel on 21 August 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 structure and exterior of the house (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order,
 - (b) the installations in the house 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, and
 - (c) the house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire
3. By letter dated 15 October 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 inspected the Property on the morning of 27 January 2014 and subsequently held a hearing at Volunteer Hall, Langtongate, Duns and heard from the Tenant. The Committee determined that the Property did not meet the

standard laid down in Section 13 of the Act and that the Landlord had failed to comply with the duties imposed on landlords by Section 14(1)(b) of the Act. The Committee comprised George Clark (chairman), Richard Burnett (surveyor member) and David Hughes Hallett (housing member).

5. The Committee made a Repairing Standard Enforcement Order in respect of the Property which was served on 6 March 2014, requiring the Landlord:-
 - (a) to carry out such works as are necessary to repair the leaks in the guttering to the rear of the Property and restore it to proper working order,
 - (b) to exhibit an up to date Periodic Electrical Test in respect of the entire electrical installation in the Property and the garage,
 - (c) to carry out such repairs as are required to ensure that the night storage heaters on the first floor landing and in the first floor bedroom to the right at the top of the stair of the Property are in proper working order; and
 - (d) to install a smoke detection system, comprising mains-wired, interlinked smoke detectors on the ground and first floors of the Property.
6. On 16 April 2014, the Committee agreed, following a request from the Landlord to postpone the re-inspection which had been scheduled for the following day, to vary the Repairing Standard Enforcement Order by extending the time allowed for the completion of the work by a period of one month following the date that the Notice of the Decision to vary the Repairing Standard Enforcement Order was served. It was served on (date to be inserted)
7. The Committee re-inspected the Property on the morning of 28 August 2014. The Landlord was not present or represented at the inspection. The Tenant was not present at the inspection, but was represented by his partner (name to be inserted)) Following the inspection, the Committee held a hearing at Volunteer Hall, Langtongate, Duns. Neither the landlord nor the Tenant was present or represented at the hearing.
8. At the inspection, the Tenant's partner advised the Committee that the landlord had delivered three second hand night storage heaters, but had not arranged for them to be fitted. The Tenant had arranged to have an electrician fit one in the bedroom to the right at the top of the stairs, one on the upstairs landing and the other two in the living room. The ones in the bedroom and on the landing appeared to be in working order, but the other two had filled the living room with smoke on the first night they were switched on and the Tenant had not been prepared to switch them on again. On 8 April 2014, the Landlord had sent a text to say he was arranging for an electrician to fit and wire up smoke detectors and the heaters he had to replace, but nothing further had happened.

Summary of the issues

9. The issues to be determined were whether the Landlord had complied with the Repairing Standard Enforcement Order and, if not, whether it was appropriate for the Committee to make a Rent relief Order under Section 27 of the Act.

Findings of fact

- (a) There is no evidence that any work has been done to repair the leaks in the guttering to the rear of the Property.
- (b) Night storage heaters have been delivered by the Landlord, but he did not arrange for them to be fitted in the first floor bedroom to the right at the top of the stairs and on the first floor landing of the Property and did not, therefore, comply with the terms of the repairing Standard Enforcement Order, which required him to carry out such repairs as were necessary to ensure that the night storage heaters on the first floor landing and in the first bedroom to the right at the top of the stair are in working order.
- (c) The Landlord has failed to exhibit an up to date Periodic Electrical Test report in respect of the entire electrical installation in the Property and the garage and

(d) The landlord has failed to install a smoke detection system, comprising mains-wired, interlinked smoke detectors on the ground and first floors of the Property. The only smoke detector is on the ground floor and it is battery-operated.

Reasons for the decision

The Committee was very concerned that the Landlord had not carried out any of the works required by the Repairing Standard Enforcement Order, and this despite having been granted additional time to complete the work. The Landlord does not appear to have taken on board the fact that the safety of his Tenant and the Tenant's family is at risk for so long as the Property does not have the required means for detecting fires and that, when making the Repairing Standard Enforcement Order, the Committee had expressed serious concerns at the condition of the electrical installation in the garage, which forms part of the overall electrical installation in the Property. The Landlord had had many months within which to address these issues and the Committee was of the view that the serious nature of his failure to do so should be reflected in the percentage of rent relief in the Order which the Committee proposed to make.

Decision

10. The Committee accordingly determined that the Landlord had failed to comply with the Repairing Standard Enforcement Order issued on 7 November 2013.
11. The Committee proceeded to make a Rent Relief Order as required by section 26(2) of the Act and directed that notice of the failure should be given to Scottish Borders Council.
12. The decision of the Committee was unanimous.

Right of Appeal

13. **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

14. 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..... **G Clark**Chairperson 28 August 2014