



## Rent Relief Order

### Ordered by Private Rented Housing Committee PRHP/RP/13/0191

Re Flat 6/63 Larkfield Road, Gourrock, PA19 1YB being the subjects registered in the Land Register of Scotland under title number REN130857 ('the Property')

**The Parties:-**

**Miss Fiona Cameron (The tenant'), residing at the Property**

**Mr Colin Todd, care of White Letting, Clarence House, 1 Haig Street, Greenock, PA15 1JG ('The landlord')**

### NOTICE TO

**Mr Colin Todd, care of White Letting, Clarence House, 1 Haig Street, Greenock, PA15 1JG ('The landlord')**

Whereas, in terms of their decision dated 4<sup>th</sup> November 2014, the Private Rented Housing Committee ("the Committee") has 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 property made by the committee on 21<sup>st</sup> May 2014, 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 Property by an amount of 10 % of the rent which would, but for the order, be payable. The monthly rent payable will therefore be £405 rather than £450. 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 2006 Act.

#### Right of Appeal

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.

Where such an appeal is made, the effect of the variation made by the Rent Relief 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 variation will be treated as having effect from the day on which the appeal is abandoned or so determined.

In witness whereof these presents typewritten on this page are executed by Martin Joseph McAllister, 51 Hamilton Street, Saltcoats, chair person of the Private Rented Housing Committee at Saltcoats on 4th November two thousand and fourteen before this witness Andrew Blair, Solicitor, 51 Hamilton Street, Saltcoats.

Chairman.....martin mcallister

Witness.. Andrew Blair



## **Determination by Private Rented Housing Committee**

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

**PRHP/RP/13/0191**

**Re Flat 6/63 Larkfield Road, Gourock, PA19 1YB being the subjects registered in the Land Register of Scotland under title number REN130857 ('the Property')**

**The Parties:-**

**Miss Fiona Cameron (The tenant'), residing at the Property**

**Mr Colin Todd, care of White Letting, Clarence House, 1 Haig Street, Greenock, PA15 1JG ('The landlord')**

### **Decision**

**The Committee determined that the landlord has not complied with the repairing standard enforcement order dated 21<sup>st</sup> May 2014 and served on 28<sup>th</sup> May 2014. In accordance with Section 26 (2)(a) of the Housing (Scotland) Act 2006 (the Act) the Committee determined that it would serve notice of the failure on the local authority. The Committee determined that, in accordance with Sections 26 (2) (b) and Section 27 of the Act it would make a rent relief order of £45 per month which has the effect of reducing the monthly rent to £405.**

### **Background**

1. By application dated 2<sup>ND</sup> January 2014 the tenant applied to the Private Rented Housing Panel for a determination of whether the landlord has failed to comply with the duties imposed by Section 14 (1) (b) of the Housing (Scotland) Act 2006 ("the Act").
2. A Committee of the Private Rented Panel made a repairing standard enforcement order in respect of the Property on 21<sup>ST</sup> May 2014 which was served on 28<sup>th</sup> May 2014. The terms of the repairing standard enforcement order were:
  - 2.1 The landlord has to ensure that a suitably qualified heating engineer inspect the heating system with regard to providing a report on whether or not it has sufficient and proper thermostatic control and thereafter to comply with any recommendations of the engineer.
  - 2.2 The landlord is to ensure that the bath panel and its trim are properly fitted.
  - 2.3 The landlord is to carry out work to ensure that the front door is wind and water tight.

The Committee members are Martin McAllister (Chairperson), Andrew Taylor (Surveyor Member) and Christopher Harvey (Housing Member).

3. The Committee had intimation from the tenant that the repairing standard enforcement order had not been complied with and a reinspection of the Property on 15<sup>th</sup> August 2014

confirmed this to be the case. On 26<sup>th</sup> September 2014 the Committee made a Direction under Regulations 14,18 and 19 of The Private Rented Housing Panel (Applications and Determinations) (Scotland) Regulations 2007 fixing an inspection of the property and a Hearing to take place on 31<sup>ST</sup> October 2014 and giving the parties an opportunity to make written representations by 17<sup>th</sup> October 2014.

4. The landlord made no representations in response to the Direction dated 26<sup>th</sup> September 2014 and the tenant's representative submitted a form dated 3<sup>rd</sup> October indicating that no works in terms of the repairing standard enforcement order had been carried out.

### **Inspection**

5. An inspection of the Property was carried out by the Committee on 31<sup>st</sup> October 2014. The tenant was present and indicated that the central heating boiler had been replaced a few weeks previously. The members of the Committee noted that the boiler had been replaced and that it was heating water and the central heating radiators. The members of the Committee noted that no work had been done to deal with the other two matters in the repairing standard enforcement order which are the issues with the front door and the bath panel.

### **Hearing**

6. A Hearing was held in the Gamble Halls, Gourock. The tenant was present and was accompanied by her mother Mrs Jessie Cameron. Both gave evidence. Neither the landlord nor his representative was present.

### **Evidence**

7. The landlord's agent had emailed the Private Rented Housing Panel on 15<sup>th</sup> September stating that the tenant was ill and that, as a consequence of that illness, the agent had not been able to progress matters. The email stated that the tenant had abused workmen sent to the house. In evidence the tenant accepted that she had an illness for which she is currently being treated. She stated that she had not been abusive to any workmen or anyone from White Letting. The tenant said that her illness had not prevented the landlord from carrying out any work. Mrs Jessie Cameron said that White Letting had her contact number and had called her in the past. She said that there would have been no difficulty in making arrangements for workmen to have access if the landlord's agents had contacted her. Both the tenant and her mother said that White Letting had, at no time, discussed with them arrangements for the front door and bath panel to be fixed. The tenant said that some time around the beginning of October she had reported a fault in the boiler. An engineer had called, indicated that an expensive part was needed and then subsequently made arrangements to call at the Property and install a new boiler. The tenant confirmed that the new boiler worked well, heated the water and provided heating to the radiators in the Property. The tenant also said that the boiler had controls which meant that she could regulate the temperature of the radiators. The Committee had been provided with a copy of the Tenancy Agreement dated 17<sup>th</sup> November 2011 which stated the monthly rent to be £450.

### **Issues to be Determined**

8. The Committee had first to determine if the repairing standard enforcement order had been complied with. The order had three components and the Committee determined that the one concerning the heating system had been implemented. The Inspection carried out on the day of the Hearing confirmed that the boiler had been replaced. The evidence of the tenant was that the heating system was working efficiently. This evidence was accepted by the Committee. The other aspects of the repairing standard enforcement order in relation to ensuring that the bath panel and trim are properly fitted and the landlord carrying out work to ensure that the front door is wind and watertight have not been implemented. This was clear from the Inspection and from the evidence of the tenant which was accepted by the Committee.

9. In view of the Determination that the landlord had failed to comply with the repairing standard enforcement order, the Committee had then to consider the terms of Section 26(2) (a) of the Act which states that, where a landlord fails to comply with a repairing standard enforcement order, notice of the failure must be served on the local authority and the Committee determined that this would be done.
10. Section 26(2) (b) of the Act states that the Committee must decide whether to make a rent relief order. The Committee decided that it was appropriate to make a rent relief order in terms of Section 27 of the Act. It determined that a ten per cent reduction in the rent would be appropriate and that a rent relief order be made which reduced the monthly rent by £45 to £405.
11. Before making the Determinations in terms of Section 26 (2) of the Act, the Committee considered the terms of Section 26(3) (i) of the Act. It had no evidence before it which persuaded it that the landlord had been unable to comply with the repairing standard enforcement order because a lack of necessary rights (of access or otherwise).

### **Reasons**

12. The Committee, having found that the repairing standard enforcement order had not been complied with, was required to serve notice of the failure on the local authority.
13. The Committee noted that the central heating boiler had been replaced and accepted that the repairing standard enforcement order had been complied with in respect of the heating system.
14. The Committee accepted the evidence of the tenant and her mother with regard to allowing access for work to be done. No counter evidence was produced by the landlord. The Committee considered it significant that, in relation to the replacement of the boiler, arrangements for access had been made at least twice. The Committee considered that the landlord or his agent could have easily made similar access arrangements for the other aspects of the repairing standard enforcement order to be dealt with.
15. The Committee formed the view that the fact that the boiler had been repaired was positive and that this was the most serious aspect of the repairing standard enforcement order. It did however consider that the landlord had failed to comply with the other two requirements of the order and that, although these were less significant than the requirement in connection with the heating system, it was still a failure. The Committee considered that it would be appropriate to grant a rent relief order and then considered what would be an appropriate exercise of its discretion in this regard. In particular, the issue of the front door not being wind and watertight was of concern and it was considered that a deduction of ten percent from the monthly rent of £450 would be appropriate.

The decision of the Committee was unanimous.

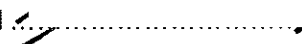
### **Right of Appeal**

**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**

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.

**martin mcallister**

Signed   
Chairperson

Date 4<sup>th</sup> November 2014