



Rent Relief Order

Ordered by the Private Rented Housing Committee

prhp Ref: PRHP/DD3/149/12

Re: Property at 108 St Fillans Road, St Marys, Dundee, DD3 9JX ("the Property")

THE PARTIES:

MR and MRS KENNETH BEATTIE residing at 108 St Fillans Road, St Marys, Dundee, DD3 9JX ("the Tenants")

AND

CALUM MACLEAN WATT, CPW Property Investment, 128 Henderland Road, Bearsden, Glasgow, G61 1JA ("the Landlord")

NOTICE TO CALUM MACLEAN WATT ("the Landlord")

Whereas in terms of their decision dated 9 May 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 9 May 2013 before this witness:-

L Johnston

witness

E Miller

Chairman

Lindsay Johnston
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:-

MR and MRS KENNETH BEATTIE residing at 108 St Fillans Road, St Marys, Dundee, DD3 9JX ("the Tenants")

CALUM MACLEAN WATT, CPW Property Investment, 128 Henderland Road, Bearsden, Glasgow, G61 1JA ("the Landlord")

Background

1. On 4 January 2013 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 repair or replace the loose/broken floorboards within the Property to a standard sufficient to meet the repairing standard;
 - (b) To replace the bathroom floor in order to meet the repairing standard.
 - (c) To provide an electrical installation condition report from a suitably qualified electrician confirming that the electrical installation and fuse box/consumer unit within the Property is in safe working order and otherwise meets the repairing standard.
 - (d) to carry out such works of repair or replacement to the upper hall window and the patio doors to ensure that they are able of being opened and closed smoothly and are properly wind and watertight and otherwise meet the repairing standard. In relation to all the windows at the Property to carry out appropriate redecoration works to bring them up to the repairing standard.
2. The Committee had ordered in the RSEO that the works specified were to be carried out and completed within 2 months.
3. On 15 March 2013 Mr D Godfrey, 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. There had been no contact with the Committee by the Landlord in the intervening period.
5. The Surveyor Member reported his findings to the Committee. 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.

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 was obliged to serve notice of the failure on the local authority and resolved to do so.
7. The Committee then decided whether or not to make a Rent Relief Order. In making this decision the Committee considered the condition of the Property. One of the primary concerns of the Committee related to safety issues. There were loose and broken floorboards within the Property and the bathroom floor was also in very poor condition. Both of these represented a safety hazard. At the time of the original inspection of the Property the Committee had been concerned about the condition of the electrical installation within the Property. No documentation had been provided by the Landlord in this regard and the Committee were therefore concerned there was still a safety issue here. The Committee also noted that there had been no interaction with the Landlord and that he had not responded to any documentation. The Committee were unaware that the Landlord intended to take any steps to meet his statutory obligations. In the circumstances the Committee felt that a Rent Relief Order at a maximum of 90% was appropriate. Accordingly the Committee resolved to grant an RRO at 90%.
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. There had been no indication from the Landlord as to why he had failed to carry out any of the steps required to comply with the RSEO. In the circumstances the Committee felt they had no option but to take the view that Section 28(1) had also 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 also determined to serve a Rent Relief Order at 90%.
10. The decision of the Committee was unanimous.

Right of Appeal

11. A landlord or Tenants 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 9/5/13
Chairperson