



Rent Relief Order

Ordered by the Private Rented Housing Committee

prhp Ref:..... PRHP/ DD1/53/13.....

Re : Property at 0/1, 4 Gardner's Lane, Lochee Road, Dundee DD1 5RE
..... (hereinafter referred to as "the house")

The Parties:

..... Lesley-Anne Dunsmuir, Property at 0/1, 4 Gardner's Lane, Lochee Road, Dundee
DD1 5RE ("the Tenant")

..... Robert Thomas Irwin and Hilary Carol Irwin, 5 Church Avenue, Holywood
BT18 9BJ ("the Landlord")

NOTICE TO ROBERT THOMAS IRWIN and HILARY CAROL IRWIN ("the Landlord")

Whereas in terms of their decision dated2 November 2014....., 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 ...20..% 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.



DETERMINATION BY PRIVATE RENTED HOUSING COMMITTEE

**STATEMENT OF DECISION OF THE PRIVATE RENTED HOUSING COMMITTEE
UNDER SECTION 26
OF THE HOUSING (SCOTLAND) ACT 2006**

In connection with

Property at 0/1, 4 Gardner's Lane, Lochee Road, Dundee DD1 5RE (hereinafter referred to as "the House")

Lesley-Anne Dunsmuir, Property at 0/1, 4 Gardner's Lane, Lochee Road, Dundee DD1 5RE (hereinafter referred to as "the Tenant")

Robert Thomas Irwin and Hilary Carol Irwin, 5 Church Avenue, Holywood BT18 9BJ (hereinafter referred to as "the Landlord")

PRHP REFERENCE PRHP/ DD1/53/13

DECISION

The Committee decided that the Landlord has failed to comply with the RSEO.

The Committee decided to make Rent Relief Order reducing the rent payable in respect of the House by 20%.

Committee Members

John McHugh, Chairperson
Michael Scott, Housing Member
David Godfrey, Surveyor Member

Reasons for the Decision

The requirements of the RSEO are:

- 1 To instruct a report from a specialist contractor who is expert in the treatment of timber as to the cause of the problems with the flooring in the House and as to the remedial works required.

- 2 To carry out the works recommended by the specialist contractor.
- 3 To put the kitchen into state of repair whereby the floor is reasonably flat and stable; the vinyl flooring meets the base units and the kitchen units and appliances are secure and stable.

The Surveyor Member of the Committee attended at the House on 29 August 2014 and carried out a re-inspection to assess whether the requirements of the RSEO had been complied with.

A report from Hampton Building Services dated 8 July 2014 was produced to the Committee shortly after the re-inspection. It identified problems with the property and recommended certain remedial works. It recommended the removal of the bathroom suite and kitchen units; the uplifting of the flooring in the kitchen, hall and the bathroom; the straightening of joists; the laying of new floors; and replacement of the suite and units.

The re-inspection revealed that replacement of some sections of flooring within the House had been carried out.

The works carried out did not appear to match the recommendations of the report by Hampton Building Services. In particular, only certain areas of flooring have been replaced in the hall. The hall floor is uneven where old and new flooring sections meet. The bath had not been removed and the flooring beneath the bath had not been replaced. There remains excess movement in the kitchen floor; the floor is uneven; the units remain out of square and the linoleum is poorly fitted adjacent to the kitchen door.

The Tenant has made representations dated 16 September 2014 via the Dundee North Law Centre that the works had not been carried out as required by the RSEO and that a Rent Relief Order should be made.

The Landlord, via its agent, has made representations dated 22 October 2014 that the required works had been carried out satisfactorily and produced photographs in support of this position. On the same date, the Landlord, via its agent, advised that there had been a delay in it receiving a copy of the Tenant's representations but that it had immediately in response instructed a structural engineer's report which it expected to be available the next day and requested that this be allowed to be considered by the Committee although outwith the timescale allowed for representations. No copy of the report has yet been received.

The Committee however is not prepared to consider any further report from a structural engineer. It is not apparent what purpose such a report might serve nor why such a report could not have been instructed prior to receipt of the Tenant's representations. It would have been apparent to the Landlord from the copy of the re-inspection report sent to it on 4 September 2014 that the Committee had identified that the works carried out by the RSEO had not been carried out in full and if any report had been thought appropriate, then that would have been the time for the Landlord to have instructed it.

The Committee had regard to the evidence found at the re-inspection and to the parties' representations. The Committee determined that there had been a failure to comply with the RSEO.

The Committee considered that the condition of the House caused by the failure to complete the works required by the RSEO justified the making of a Rent Relief Order reducing the rent payable by 20%.

Decision

The Committee, considering the terms of section 26 of the Act, decided that the Landlord has failed to comply with the Repairing Standard Enforcement Order.

The Committee decided to make a Rent Relief Order reducing the rent payable in respect of the House by 20%.

The decision of the Committee was unanimous.

Right of Appeal

Section 64 of the Act provides a right of appeal to a landlord or tenant aggrieved by a decision of a private rented housing committee. An appeal may be made to the Sheriff within 21 days of the Landlord or Tenant being informed of the decision.

Where such an appeal is made, the effect of the decision and 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.

John McHugh
Chairperson

Date: 2 November 2014