



Rent Relief Order

Ordered by the Private Rented Housing Committee

prhp Ref: PRHP/RP/13/14

Re: 20 Fintry Road, Dundee, DD4 9EJ ("the house")

The Parties:

ELIZABETH DOLAN residing at 20 Fintry Road, Dundee, DD4 9EJ ("the Tenant")

CALUM MACLEAN WATT c/o CPW Property Investments, Centrum Offices 38 Queen Street, Glasgow, G1 3DX (represented by his agent Mr John Haughey) ("the Landlord")

NOTICE TO CALUM MACLEAN WATT ("the Landlord")

Whereas in terms of their decision dated 9 January 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 30% 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 January 2014 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**

prhp Ref: PRHP/RP/13/14

Re: 20 Fintry Road, Dundee, DD4 9EJ ("the Property")

The Parties:-

ELIZABETH DOLAN residing at 20 Fintry Road, Dundee, DD4 9EJ ("the Tenant")

CALUM MACLEAN WATT c/o CPW Property Investments, Centrum Offices 38 Queen Street, Glasgow, G1 3DX ("the Landlord")

Background

1. On 18 September 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 carry out such works to the boiler as are necessary to ensure compliance with the repairing standard. Upon completion of such works the Landlord shall exhibit to the Committee a gas safety certificate from a suitably qualified gas engineer confirming that the gas appliances within the property are all in property working order and comply with the relevant regulations.
 - b) to carry out such works for repair or replacement the rhones and downpipes at the Property to ensure that they comply with the repairing standard.
2. The Committee had ordered in the RSEO that the works specified were to be carried out and completed within a period of 4 weeks.
3. On 29 October 2013 Mr D Godfrey, the Surveyor Member of the original Committee, carried out a reinspection of the Property. The Tenant was present. Neither the Landlord nor his agent were present.
4. The Surveyor Member reported to the Committee that the rhones at both the front and rear of the Property had been replaced and the system now appeared to be in proper working order. However, no obvious repairs or improvements had been carried out to the central heating system and no Gas Safety Certificate was available for inspection.
5. The Committee then considered what steps to take. The reinspection report was circulated to both parties. No response was received from the Landlord to indicate if they had any intention of carrying out further works to the central heating system or to produce a Gas Safety Certificate in order to comply with the RSEO. In terms of Section 26(1) of the Act, it was for the Committee to decide whether the 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 whilst works had been carried out to the phones it was clear that the works to the central heating system and the production of the Gas Safety Certificate remained outstanding. No reason had been given by the Landlord for his failure to comply. Accordingly the Committee was obliged to serve a 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 had been aware from the original inspection and hearing that the Landlord may be struggling for funds to carry out the works required at the Property. However it was apparent that the Landlord was still collecting rent from this Property and had been for some considerable time. 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 matter that was outstanding. The requirement to provide a Gas Safety Certificate was a clear one. Gas Safety Certificates were required to ensure that gas installations in properties were safe and did not represent a threat to tenants. Accordingly the Committee considered that it was appropriate to serve an RRO. However, at the present time, the central heating system was still providing the Tenant with heat and hot water and therefore whilst compliance with the Regulations was not being achieved there was limited inconvenience to the Tenant. In the circumstances the Committee was of the view that a 30% RRO was an appropriate level of penalty to impose.
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 RRO commits an offence. Whilst the Committee accepted that the Landlord may be struggling for funds this was not, as set out above, a reasonable excuse. As highlighted above, the Landlord had collected rent over many years and had failed to apply any funds to maintaining the Property. 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 RRO. The Committee determined to serve a notice of failure to comply with the RRO 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 was also satisfied that it was appropriate to grant an RRO at 30% 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 2/1/14
Chairperson