



## Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

prhp Ref: PRHP/RP/13/0081

Re : Property at Flat 3/L, 15 Union Place, Dundee DD2 1AA ("the Property")

Title No: ANG13623

The Parties:-

Springfield Properties Limited, incorporated under the Companies Acts and having their Registered Office at 2 India Buildings, 86 Bell Street, Dundee ("the Landlord")

Peng Ao, sometime residing at Flat 3/L, 15 Union Place, Dundee DD2 1AA ("the Tenant")

### NOTICE TO SPRINGFIELD PROPERTIES LIMITED ("the Landlord")

Whereas in terms of their decision dated 27 February 2014, the Private Rented Housing Committee determined that the landlord has failed to comply with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 and in particular that the landlord has failed to ensure that:-

(a) the Property is wind and water tight and in all other respects fit for human habitation;

the Private Rented Housing Committee now requires the landlord to carry out such work as is necessary for the purposes of ensuring that the house concerned meets the repairing standard and that any damage caused by the carrying out of any work in terms of this Order is made good.

In particular the Private Rented Housing Committee requires the landlord:-

- (a) to instruct a builder to investigate the cause of the dampness in the bedroom of the Property;
- (b) thereafter to carry out such remedial works as are necessary to make the Property wind and water tight;
- (c) to instruct a timber specialist to investigate and to treat or, if necessary, replace all rotted timber in the window lining boards and floor of the bedroom of the Property and to make good all damage to the woodwork and paintwork;
- (d) to exhibit to the Committee the timber specialist's Specification, Estimate and Guarantee in respect of the works carried out; and
- (e) to instruct a builder to reinstate the ceiling cornice and any damaged plasterwork and to redecorate as necessary.

The Private Rented Housing Committee order that the works specified in this Order must be carried out and completed within the period of 28 days from the date of service of this Notice.

**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, 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.

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 27 February 2014 before this witness Valerie Elizabeth Jane Clark, Droman House, Lasswade, Midlothian.

 G Clark  
.....Chairperson

V Clark  
.....Witness



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

prhp Ref: PRHP/RP/13/0081

Re : Property at Flat 3/L, 15 Union Place, Dundee DD2 1AA ("the Property")

The Parties:-

Peng Ao, sometime residing at Flat 3/L, 15 Union Place, Dundee DD2 1AA ("the Tenant")

Springfield Properties Limited, incorporated under the Companies Acts and having their Registered Office at 2 India Buildings, 86 Bell Street, Dundee ("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 duty imposed by Section 14 (1)(b) in relation to the house concerned, and taking account of the evidence led by both the Landlord and the Tenant at the hearing, determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

### Background

1. By application dated 26 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 house is wind and water tight and otherwise fit for human habitation,
3. By letter dated 4 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 served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon both the Landlord and the Tenant.
5. Following service of the Notice of Referral, neither party made written representations to the Committee.
6. The Private Rented Housing Committee ("the Committee") attempted to inspect the Property on the morning of 18 December 2013, but was unable to gain access. Enquiries of the Landlord disclosed that the Tenant had vacated the Property. The Landlord was not present or represented during the inspection. The Committee observed, from street level, that a section of flashing on the tenement roof had become detached and appeared to be at risk of falling, causing potential danger to passers-by. Accordingly, the Committee decided, under Paragraph 7(3)(b) of Schedule 2 of the Act, to determine the application on grounds of public safety, rather than treat the application as having been withdrawn by

virtue of the tenancy having been lawfully terminated. The Committee issued a Direction to that effect on 18 December 2013.

7. The Committee inspected the Property on the morning of 27 February 2014. Neither the Landlord nor the Tenant was present or represented during the inspection. The Committee was admitted to the Property by a contractor on-site. The Committee comprised George Clark (Chair), David Godfrey (Surveyor) and Michael Scott (Housing member)
8. Following the inspection of the Property the Private Rented Housing Committee held a hearing at Douglas Community Centre, Balmoral Avenue, Dundee. Neither the landlord nor the Tenant was present or represented at the hearing.
9. The Tenant submitted as follows in his application:- there was water damage to the bedroom ceiling and walls and there were condensation stains on the wall and carpet of the bedroom, caused by rainwater leaking through the roof.
10. The Landlord had made no submissions in response to the application

#### **Summary of the issues**

11. The issues to be determined were whether the Property met the repairing standard as laid down in Section 13 of the Act and whether the Landlord had complied with the duties imposed on landlords by Section 14(1)(b) of the Act.

#### **Findings of fact**

12. The Committee finds the following facts to be established:-
  - The tenancy is a Short Assured Tenancy, which appears to have been terminated.
  - The Property is a top floor flat in a four-storey tenement.
  - The bedroom of the Property faces the front of the tenement and there is a chimney stack immediately above the bedroom window.
  - There is a severe sag in the ceiling and cornice of the bedroom wall above the window and the deviation in the ceiling is so significant that the Committee considered it to be in a dangerous condition.
  - There is widespread damp staining on the plasterwork of the outside wall adjacent to the bedroom window and rot in the timber lining beneath the window and in the floor of the window recess.
  - Although it was readily apparent from visual examination that the bedroom wall was damp, this was confirmed by high moisture readings in the wall and floor.

#### **Reasons for the decision**

13. The condition of the ceiling and cornice and the clear evidence of damp staining and rot in the area of the bedroom window of the Property were sufficient evidence to enable the Committee to conclude that the Property was not wind and watertight and did not, therefore, meet the repairing standard.

#### **Decision**

14. The Committee accordingly determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.
15. The Committee proceeded to make a Repairing Standard Enforcement Order as required by section 24(1).
16. The decision of the Committee was unanimous.

**Right of Appeal**

17. 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**

18. 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** ..... Date 27 February 2014.  
Chairperson