



## Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

**prhp Ref:** PRHP/RP/14/0068

**Re:** The subjects comprise a traditional semi-detached, single storey cottage situated at Balmydown Farm, Strathmartine in Angus. This is a rural location just beyond the disused Strathmartine Hospital on the outskirts of Dundee and about 3 miles north of the city centre. The cottage was probably originally built in the 1800's or earlier and has been extended at some point. It was also renovated around 20 years ago. It is constructed of stone with a pitched and hipped slated roof. The accommodation comprises a small entrance hall, living room, one double bedroom, one single bedroom, kitchen and bathroom. There are gardens to the front, rear and side and a small shed to the rear ("the Property")

**Title No:** ANG61764

### **The Parties:-**

**MR ALISTAIR RONALD HODNETT and MRS AMANDA CARIS HODNETT, Spouses residing at Balmydown Cottage, Strathmartine, Dundee, Angus, DD3 0PQ ("the Landlords")**

**MR ALASTAIR COMBE residing at Braeview Cottage, Balmydown, Strathmartine, Dundee, Angus, DD3 0PQ ("the Tenant")**

### **NOTICE TO MR ALISTAIR RONALD HODNETT and MRS AMANDA CARIS HODNETT ("the Landlords")**

Whereas in terms of their decision dated 9 April 2015, the Private Rented Housing Committee determined that the Landlords had failed to comply with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 ("The Act") and in particular that the Landlords had failed to ensure that:-

- (a) The Property is wind and watertight and in all other respects reasonably fit for human habitation;
- (b) The structure of and exterior of the Property (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order;
- (c) The installations in the Property for the supply of water, gas and electricity and for sanitation, space heating and heating water are in a reasonable state of repair and in proper working order;
- (d) Any fixtures, fittings and appliances provided by the Landlords under the tenancy are in a reasonable state of repair and in proper working order;

the Private Rented Housing Committee now requires the Landlords 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 Landlords:-

- (a) to install appropriate and sufficient heating within the Property to comply with the repairing standard.
- (b) To provide an electrical installation condition report by a suitably competent and registered electrician confirming that the electrical system within the Property meets the relevant electrical standards.
- (c) To carry out such works as are necessary to the roof of the Property to render it properly wind and watertight.

(d) To replace the missing floor coverings within the Property.

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.

**Please note that in terms of section 28(1) of the Act, a Landlord who, without reasonable excuse, fails to comply with a RSEO commits an offence liable on summary conviction to a fine not exceeding level 3 on the standard scale. A Landlord (and that includes any Landlords's successor in title) also commits an offence if he or she enters into a tenancy or occupancy arrangement in relation to a house at any time during which a RSEO has effect in relation to the house. This is in terms of Section 28(5) of the Act.**

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 April 2015 before this witness:-

L. JOHNSTON

E. MILLER

— witness

— 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 Section 24 (1) of the Housing (Scotland) Act 2006**

**prhp Ref: PRHP/RP/14/0068**

**Re:** The subjects comprise a traditional semi-detached, single storey cottage situated at Balmydown Farm, Strathmartine in Angus. This is a rural location just beyond the disused Strathmartine Hospital on the outskirts of Dundee and about 3 miles north of the city centre. The cottage was probably originally built in the 1800's or earlier and has been extended at some point. It was also renovated around 20 years ago. It is constructed of stone with a pitched and hipped slated roof. The accommodation comprises a small entrance hall, living room, one double bedroom, one single bedroom, kitchen and bathroom. There are gardens to the front, rear and side and a small shed to the rear ("the Property")

### **The Parties:-**

**MR ALASTAIR COMBE** residing at Braeview Cottage, Balmydown, Strathmartine, Dundee, Angus, DD3 0PQ ("the Tenant")

**MR ALISTAIR RONALD HODNETT and MRS AMANDA CARIS HODNETT**, Spouses residing at Balmydown Cottage, Strathmartine, Dundee, Angus, DD3 0PQ ("the Landlords")

### **Decision**

The Committee, having made such enquiries as it saw fit for the purposes of determining whether the Landlords had complied with the duty imposed by Section 14 (1)(b) in relation to the house concerned, and taking account of the evidence obtained during the course of the inspection, determined that the Landlords had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

### **Background**

1. By application dated 1 March 2014 the Tenant applied to the Private Rented Housing Panel for a determination of whether the Landlords 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 Landlords had failed to comply with their duty to ensure that the house meets the repairing standard and in particular that the Landlords had failed to ensure that:-
  - (a) The Property is wind and watertight and in all other respects reasonably fit for human habitation;
  - (b) The structure of and exterior of the Property (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order;
  - (c) The installations in the Property for the supply of water, gas and electricity and for sanitation, space heating and heating water are in a reasonable state of repair and in proper working order;

- (d) Any fixtures, fittings and appliances provided by the Landlords under the tenancy are in a reasonable state of repair and in proper working order;

The Property has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.

3. By letter dated 30 October 2014 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 Landlords and the Tenant.
5. Following service of the Notice of Referral the Tenant made no further written representation to the Committee other than his original application. The Landlords by email dated 1 November 2014 made written representations to the Committee.
6. The Private Rented Housing Committee comprising Mr E K Miller (Chairman and Legal Member), Ms C Jones (Surveyor Member) and Mr J Wolstencroft (Housing Member) inspected the Property on the morning of 19 March 2015. The Tenant was not present, having removed from the Property. The Landlords were present during the inspection.
7. Following the inspection of the Property the Private Rented Housing Committee held a hearing at Kirkton Community Centre, Dundee. Neither party was present or represented at the hearing.
8. There were no representations from the Tenant to consider other than the original application.
9. The Landlords had provided some commentary during the course of the inspection and had indicated there had been communication difficulties between themselves and the Tenant during the course of the tenancy. They felt that the Property had been left in a very poor condition and they had been unable to gain access to the Property during the course of the tenancy to carry out works. They were carrying out a full refurbishment of the Property and accepted that they required to ensure that the Property was compliant with the repairing standard.

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

10. The issues to be determined were
  - (1) Whether there was adequate heating at the Property sufficient to comply with the repairing standard.
  - (2) Whether there was a hole within the porch roof that required to be repaired.
  - (3) Whether the back door was properly wind and watertight and otherwise met the repairing standard.
  - (4) Whether the electrical system within the Property met the repairing standard.
  - (5) Whether there was damp in the Property that required to be attended to.
  - (6) Whether there was adequate drainage to the Property
  - (7) Whether the roof was properly wind and watertight and in all other respects met the repairing standard.
  - (8) Whether there was adequate provision for smoke detection within the Property.



- (9) Whether there was sufficient floor coverings within the Property to meet the repairing standard.

#### **Findings of fact**

11. The Committee found the following facts to be established as at the date of the inspection:-

- (i) There was inadequate heating within the Property at the date of the inspection.
- (ii) The porch roof/fascia had been repaired and met the repairing standard.
- (iii) The back door met the repairing standard.
- (iv) Evidence was still to be provided that compliance with relevant electrical standards had been met.
- (v) There appeared to be no material damp issues within the Property.
- (vi) The drainage appeared to be in proper working order and met the repairing standard.
- (vii) There were some minor roof works required to achieve compliance with the repairing standard.
- (viii) There was a compliant smoke alarm system within the Property.
- (ix) There were no floor coverings within the Property.

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

12. The Committee based its decision primarily on the evidence obtained during the course of the inspection.

The only heating within the Property was an open fire in the lounge. It was evident from the inspection that the Property was being extensively refurbished by the Landlords. There was evidence that there had been panel and storage heaters within other rooms within the Property during the tenancy. The Landlords alleged that the Tenant had removed some of these heaters during the tenancy. The Landlords had removed the remaining heaters and were in the process of installing a full oil system (a new oil tank was located outside the Property at the date of inspection). The Committee accepted that the Landlord was in the process of providing adequate heating but, as at the date of the inspection, the heating provision was inadequate.

The porch roof met the repairing standard and appropriate works had been carried out to this by the Landlords.

The back door along with all windows had been replaced with modern PVC units and these met the repairing standard.

The Committee was of the view that on a cursory examination the electrics would appear to be in proper working order. A new consumer unit with fixed RCD protection had been installed. However the Landlords were carrying out further works within the Property and the Committee felt it would be appropriate upon the completion of these for the Landlords to provide a clear electrical installation condition report confirming compliance with the relevant electrical standards.

The Committee inspected the bedroom. There was some evidence of mould spotting on the rear wall within the fitted wardrobes. This backed on to the rear external wall and was an area of the bedroom where there was limited airflow. The Landlords advised that the

Tenant had built a raised dog pen adjacent to the exterior of this wall and that this had contributed to damp forming on the interior wall. The Committee accepted the Landlords evidence in this regard. A damp meter test indicated some low level moisture readings that the Committee felt fell within acceptable parameters and were commensurate with the age, type and location of this rural property. Some of the mould appeared to be caused by condensation rather than any fundamental issue with the Property. On that basis the Committee was satisfied that the repairing standard had been complied with.

The Committee inspected the drainage at the rear of the Property. There appeared to be an adequate drainage system. The Landlords advised there had been some issues due to the Tenant flushing the dog excrement and general debris down the drainage system. They had had the system cleared twice during the tenancy and both times it had been blocked due to the Tenant and his animals. The Committee was satisfied that there was a working system present as at the date of inspection.

The Committee inspected the roof of the Property. There were a few loose, broken and missing slates on the front, hip and rear pitches. The Landlords confirmed they were happy to attend to these and the Committee was satisfied that upon these issues being attended to, compliance with the repairing standard would be achieved.

The Committee inspected the smoke detection system within the Property. There were two hardwired interlinked alarms within the lounge and front hallway. There was also a heat detector in the kitchen. Accordingly compliance with the standard set out in the Domestic Technical Handbook 2014 was present and the repairing standard was being met.

The Committee noted there were no floor coverings within the Property, the Landlords having removed these as part of the refurbishment. The Landlords confirmed that they would be putting new floor coverings in place. Once this was done this would achieve compliance with the repairing standard.

Overall the Committee was satisfied that compliance would be achieved by the Landlords, although as at the date of the inspection there were outstanding works. On that basis the Committee felt obliged to serve a Repairing Standard Enforcement Order ("RSEO") on the Property but was satisfied that the Landlords would soon achieve compliance. The Landlords had a new tenant looking to take entry to the Property and were intending to complete the works in short order. On that basis the Committee was satisfied that a period of 28 days would be sufficient for the Landlords to carry out the necessary works.

The Committee would highlight to the Landlords that it would be a criminal offence to re-let the Property whilst the RSEO was outstanding.

### **Decision**

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

### **Right of Appeal**

16. 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**

17. 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 ..... Date.....  
Chairperson