



## Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

prhp Ref: PRHP/RP/15/0044

Re: The Old Kirk Cottage, Eassie, Forfar, DD8 1SG ("the Property")

Title No: ANG 1709

The Parties:-

Alexander Hugh Pattullo and Heather Ann Pattullo per their agents Wardhaugh Property Management 38/40 East High Street Forfar ("the Landlord")

Natalie Molloy and John Molloy The Old Kirk Cottage, Eassie, Forfar per their agents Dundee North Law Centre 101 Whitfield Drive Dundee ("the Tenant")

### **NOTICE TO: Alexander Hugh Pattullo and Heather Ann Pattullo ("the Landlord")**

Whereas in terms of their decision dated 28<sup>th</sup> May 2015, 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 ("The Act") and in particular that the landlord **has failed to ensure that:**

- (a) The house is wind and water tight and in all other respects reasonably fit for human habitation
- (b) The structure and exterior of the house (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order.

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 damp proofing specialist member of the Property Care Association to carry out a full inspection of the property to report on the extent and treatment required of dampness in the property. All recommended works including satisfactory re-instatement of the interior plasterwork to be carried out. The report, invoices and confirmation that the work has been carried out should be submitted to the committee.
- (b) To replace the porch, and to repair or replace the rusted, leaking and misaligned gutters and rhones.
- (c) To improve the ventilation to the property, particularly in the kitchen and bathroom to prevent the build up of condensation.

The Private Rented Housing Committee order that the works specified in this Order must be carried out and completed within the period of 12 weeks 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 landlord'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 subscribed by Anne McCamley, Chairman of the Private Rented Housing Committee at Edinburgh on the Twenty-ninth day of May Two Thousand and Fifteen in the presence of Murdoch McCamley, retired Chartered Accountant of 5bWester Coates Terrace Edinburgh.

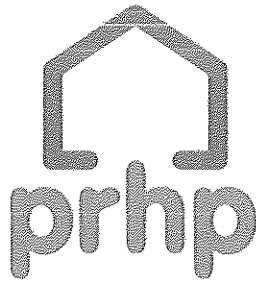
M McCamley

A McCamley

(witness)

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Chairman Private  
Rented Housing  
Committee



**Determination by the Private Rented Housing  
Committee**

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

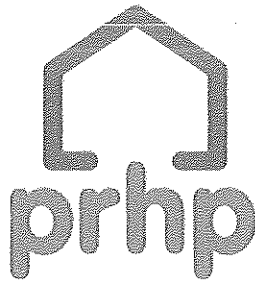
**Property: The Old Kirk Cottage, Eassie, Forfar,  
Angus DD8 1SG**

**Alexander Pattullo and Ann Pattullo (landlord)  
per their agent Wardhaugh Property, 38- 40  
East High Street Forfar.**

**Natalie Molloy and John Molloy (tenant) The  
Old Kirk Cottage Eassie, Forfar, Angus DD8 1SG  
per Dundee North Law Centre, 101 Whitfield  
Drive, Dundee.**

**Title Number: ANG 1709.**

**Reference: PRHP/RP/15/0044.**



**Decision:**

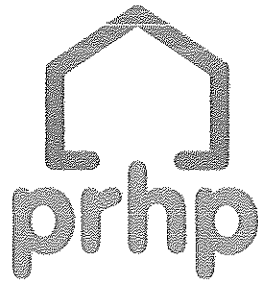
1.The Committee having made such enquiry as it sees fit for the purpose of determining whether the landlord has complied with the duty imposed by section 14(1)(b) of the Housing (Scotland) Act 2006 in relation to the property concerned, and taking account of the whole oral and written evidence determines that the landlord has failed to comply with the duty imposed by section 14(1)(b) of the Act.

**Background:**

2.By application dated 3/2/15 the tenant applied to the Private Rented Housing Panel for a determination as to whether the landlord had failed to comply with the duties imposed by Section 14(1)(b) of the Act.

3.The application by the tenant stated she considered the landlord had failed to comply with the duty to ensure the house meets the repairing standard and brought forward the following alleged breaches:-

a.The house is riddled with dampness which permeates the hall, front porch, bathroom, conservatory and bedroom.



4.The Private Rented Housing Committee served a Notice of Referral dated 2/4/15 under and in terms of Schedule 2, paragraph 1 of the Act on both the landlord and the tenant.

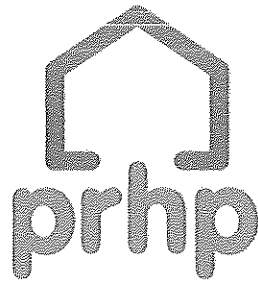
### **The Inspection and hearing**

5.The Committee comprising Mrs. A. McCamley (Chairman) and Mr. D. Godfrey (Surveyor) inspected the property on the morning of 28<sup>th</sup> May 2015. Both the tenant and the landlord's property agent (Mr Menzies) were in attendance.

6.Following the inspection of the property the Committee held a hearing at the Community Hall in Balkeerie. The landlord, Mr Patullo, joined the parties specified in paragraph 5 above for the hearing.

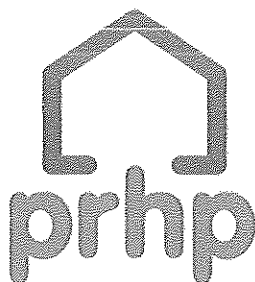
7.The Committee heard submissions from the tenant, the landlord and the landlord's agent.

8.The tenant submitted the wall in the main bedroom was very damp. During the winter weather the wall would 'run' with moisture and if she wiped her hand over the wallpaper her hand would come away wet. The smaller bedroom, bathroom, kitchen and porch also suffered from significant dampness. The dampness in the conservatory had been rectified by the landlord prior to the hearing. Mrs Molloy explained her



health had suffered as a result of the dampness particularly in the bedroom and her baby son had been treated with anti- biotics for a chest infection for months. She stated the landlord had carried out some work to the property but those works had not eradicated the dampness.

9. The landlord agreed there were issues which he needed to resolve. He accepted there is an outstanding issue with dampness on the walls of the main bedroom. He had hoped to rectify the problem by undertaking repairs to the roof and flashing around the chimney. Unfortunately this repair did not address the rising damp in the bedroom. He accepted the porch suffered water ingress and required to be removed and replaced. He advised an extractor fan had been installed in the bathroom which he had expected to solve the dampness issues in that room. The external kitchen wall had been repointed in an effort to eradicate dampness. This had not worked as had been hoped since the worst of the dampness is on an internal not an external wall. Although a local firm of slaters/plumbers and heating engineers had been instructed to recommend some upgrades to the property the landlord had not obtained reports from damp proofing specialists. He believed further work would be very disruptive to the tenant, he did not think it would be sensible to carry out work over the winter and the property comprised a very old stone built cottage which was difficult to maintain.

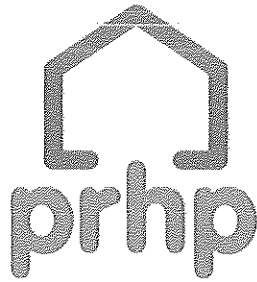


## **Decision and reasons**

10. Having inspected the property and taken account of the oral and written evidence and thereafter being guided by the committee's surveyor member the committee finds the following facts to be established:

11. Internally, penetrating and rising damp was noticed in all rooms except the conservatory and living room. Very high dampness readings (which were off the scale) were recorded on an electronic moisture meter applied in the main bedroom. Mould staining and peeling wallpaper was observed in the kitchen, bathroom and small bedroom. The porch leaks from the roof and there is evidence of dampness throughout.

12. Visual inspection of the property as well as the high electronic moisture meter readings confirmed the presence of dampness in the house. The committee considered whether the extent of dampness was to a level which made the house not 'reasonably fit for human habitation' and to what extent the dampness and condensation may have arisen as a result of the manner of the tenant's use of the house. There was no suggestion from the landlord that the tenant had failed to 'air and fire' the cottage in a proper manner and, during the course of the inspection and hearing we formed the view that the tenant is a reliable and credible person. We are satisfied the tenant has done her best to heat and



ventilate the property using the heating and ventilation systems available to her.

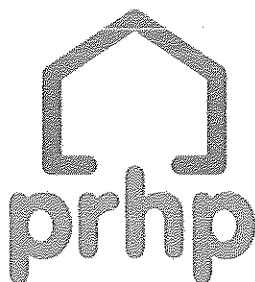
The committee considered the degree of dampness and condensation in the property was to a level that the property could not be said in all respects to be reasonably fit for human habitation. The tenant contended there had been injury to her health and to the health of her baby son caused by the dampness which reinforces the view of the committee that the house is not fit for human habitation. The tenant's evidence was not challenged on this point. Considering all the circumstances the committee concluded the landlord had failed in his duty to ensure the house meets the repairing standard detailed in section 13(1)(a).

13. The committee observed the need for external repairs to the roof and the rusted and misaligned gutters and rhones and considered these repairs may have an impact on the dampness issues within the house. The landlord concurs that the porch which forms part of the structure of the cottage is not in a reasonable state of repair. In the circumstances we find the landlord has not complied with the repairing standard detailed in section 13(1)(b) of the Act.

Decision:

14. The Committee accordingly determines the landlord has failed to comply with the duty imposed by section 14(1)(b) of the Act.





15.The Committee makes a Repairing Standard Enforcement Order as required by section 24(1) of the Act.

16.The decision of the Committee is unanimous.

**Right of Appeal:**

17.A landlord or tenant aggrieved by the decision of the Private Rented Housing Committee may apply to the Sheriff by summary application within 21 days of being notified of the decision.

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.

A McCamley

Signed.

Date...28<sup>th</sup> May 2015

Chairman Private Rented Housing Committee