



**A Repairing Standard Enforcement Order**  
**Ordered by the Private Rented Housing Committee**

prhp Ref: prhp/rp14/0054

**Re : Property at 16A Shaftesbury Place, Dundee Angus DD2 1JX being All and Whole the westmost house on the first floor at 16A Shaftesbury Place, Dundee, referred to in the Feu Disposition to Judith Alison Wallace recorded in the General Register of Sasines for the county of Angus on 21 July 1993 ("the Property")**

**The Parties:-**

**Miss Dawn Fieldsend, 16A Shaftesbury Place, Dundee, Angus DD2 1JX ("the Tenant")**

**Mr John Downes c/o Struan Baptie Property Management Ltd., 1A Victoria Road, Dundee DD1 1EL ("the Landlord")**

**NOTICE TO:- Mr John Downes c/o Struan Baptie Property Management Ltd., 1A Victoria Road, Dundee DD1 1EL ("the Landlord")**

Whereas in terms of their decision dated 1/7 2014, The Private Rented Housing Committee having 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 comply with the duty to ensure that:- the house is wind and water tight and in all other respects reasonably fit for human habitation, and 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 of the work in terms of this Order is made good.

In particular, the Private Rented Housing Committee requires the Landlord to:-

1. Investigate and rectify the source of the water ingress to the front bedroom and living room, including inspecting the roof and cleaning the gutters if necessary.
2. Repair/replace the external window sills and replace the packing between the external window frames and wall outside the front bedroom and the living room.

The Private Rented Housing Committee orders that the work should be carried out within a period of 3 months from the date of service of this notice.

**A landlord or a tenant aggrieved by this 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 variation is suspended until the appeal is abandoned or finally determined, and where the appeal is abandoned or finally determined by confirming the decision, the variation will be treated as having effect from the day on which the appeal is abandoned or so determined.

In witness whereof these presents type written on this and the preceding page are executed by Judith V Lea, solicitor, Unit 3.5 The Granary Business Centre, Coal Road, Cupar, Fife, KY15 5YQ, chairperson of the Private Rented Housing Committee at Cupar on 1/7 2014 before this witness:-

R Graham  
.. Witness

J Lea  
..... Chairman

Rachel Graham / ~~Maxine Smith~~  
Unit 3.5, The Granary Business Centre  
Coal Road  
Cupar  
Fife



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

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### 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 submissions both written and oral from the Landlord and the Tenant, 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 17 February 2014 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 the duty to ensure that the house meets the repairing standard and in particular that the Landlord had failed to ensure that the house was wind and water tight and in all other respects reasonably fit for human habitation, and that the structure and the exterior of the house (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order.
3. 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. The Private Rented Housing Committee, comprising Judith Lea, Chairman and Legal Member; Geraldine Wooley, Surveyor Member; and David Hughes Hallett, Housing Member, inspected the Property on 26 June 2014. The Tenant was present at the inspection and the Landlord was represented by Craig Watson from Struan Baptie Property Management Ltd.
6. Following the inspection of the Property, the Private Rented Housing Committee held a hearing at Douglas Community Centre, Balmoral Avenue, Dundee. The Tenant was present but the Landlord was not present or represented.

7. The Tenant advised that she had lived in the property for a period of 2 years. When she moved in there was evidence of previous damage caused by leaks but she was told that it had all been rectified. In the back bedroom at the property, there had been no further leak, however the front bedroom had a leak in the ceiling where water came through and she had to collect it in woks. The leak in the front bedroom was getting worse. There was also a leak in the lounge, which was not quite as bad but there were still drips coming down which had to be collected in a wok. The Tenant explained that this only occurred when the weather was bad and there was wind and rain. It had happened about 4 times since August 2012. The first time it was only the front bedroom that was affected but it was getting worse and now both the lounge and the bedroom were affected. The Landlord's agent commented at the inspection that it was thought that the problem was coming either from the windows of the flat above or from the roof.
8. The Tenant advised that the windows in the front bedroom were very draughty and she had a real problem with dust coming into the room constantly. She confirmed that there was no water ingress through either the living room or the bedroom window. The Tenant advised that she had concerns with regard to the state of disrepair of the external window sills and the filling coming out of the cavity between the window frame and the wall.

### **Decision**

9. It was clear from the inspection that there was an ongoing problem with a leak in the living room and front bedroom ceilings. There were damp patches evident on the ceilings of both rooms and in the front bedroom the damp patch extended over a large area including the area above the main light in the room. The Committee noted that the leak only occurred infrequently but also noted that the Tenant felt unable to use the front bedroom due to concerns about the leak re-occurring. This is understandable, especially given the potential danger caused by the proximity of the electrics connecting the bedroom light in the ceiling. It was clear to the Committee that the property is not wind and watertight and this is a breach of Section 13(1)(a) of the Repairing Standard. Although the flat is not a top floor flat, it looked to the Committee, from an external inspection, that there might well be a problem with the roof or gutters which is the cause of the problem. The Committee accordingly made an order that the Landlord ascertain the cause of the problem and rectify it. In connection with the ceiling in the back bedroom, the Tenant confirmed that there was no ongoing leakage and accordingly the Committee did not consider it necessary to make any order.
10. In connection with the windows, it was clear from inspection that the external window sills outside the front bedroom and living room were in a state of disrepair. It was also clear that the packing in the external cavity between the window frames and the wall is disintegrating. The Committee considered that this would be contributing to the draught problems that the Tenant was experiencing. The Committee accordingly found a breach of Section 13(1)(b) of the Repairing Standard and proceeded to make a Repairing Standard Enforcement Order. The window in the back bedroom had some condensation but the Committee did not consider that the state of the window in the back bedroom was serious enough to be a breach of the Repairing Standard. The Committee noted that the windows in the property in themselves appeared to be in relatively good condition. The Committee however would suggest that the Landlord check the window in the back bedroom and ensures that its condition does not deteriorate further.
11. The Committee accordingly determined that the Landlord had failed to comply with the duty imposed by Section 14(1)(b) of the Act.
12. The Committee proceeded to make a Repairing Standard Enforcement Order as required by Section 24(1).
13. The Decision of the Committee was unanimous.
14. Although the Committee had concerns with regard to safety in connection with the leak in the front bedroom ceiling, the Committee also appreciate, given that there are 5

properties in the tenement, that the Landlord will require some time to organise any necessary roof repairs. The Committee accordingly allowed the Landlord a period of 3 months to comply with the Repairing Standard Enforcement Order.

**Right of Appeal**

15. 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**

16. 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 ..... **J Lea** ..... Date..... **1/7/14** .....

Chairperson