



## **Repairing Standard Enforcement Order**

**Ordered by the Private Rented Housing Committee**

**prhp Ref: PRHP/RP/16/0031**

**Re: Property at 137 Struan Road, Perth, PH1 2NH ("the Property")**

**Title No: PTH8630**

**The Parties:-**

**BARRY FARRELL and CAROLINE FERNE FARRELL residing at Shalom, 2 Kilgraston School, Bridge of Earn, Perth ("the Landlords")**

**MISS HANNAH CHRISTIE and MR GRAHAM GEDDES residing together at 137 Struan Road, Perth, PH1 2NH ("the Tenants")**

### **NOTICE TO BARRY FARRELL and CAROLINE FERNE FARRELL ("the Landlord")**

Whereas in terms of their decision dated 25 May 2016, 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 the Property:-

- (a) is wind and watertight and in all other respects reasonably fit for human habitation;
- (b) that 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;

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 carry out such works to all windows within the Property to ensure that the necessary trickle ventilation is properly installed and in working order
- (b) to take advice from a professional company regarding measures to reduce the excessive condensation/mould within the Property and to carry out any such recommendations by the said company.

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 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 executed by Ewan Kenneth Miller, Solicitor, Whitehall House, 33 Yeaman Shore, Dundee, DD1 4BJ, Chairperson of the Private Rented Housing Committee at Dundee on 25 May 2016 before this witness:-

**E Miller**

witness

Chairman

**L Johnston**

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/16/0031

**Re:** Property at 137 Struan Road, Perth, PH1 2NH ("the Property")

### **The Parties:-**

**MISS HANNAH CHRISTIE and MR GRAHAM GEDDES residing together at 137 Struan Road, Perth, PH1 2NH ("the Tenants")**

**BARRY FARRELL and CAROLINE FERNE FARRELL residing at Shalom, 2 Kilgraston School, Bridge of Earn, Perth ("the Landlords")**

### **Decision**

**The Committee, having made such enquiries as it saw fit for the purposes of determining whether the Landlords has complied with the duty imposed by Section 14 (1)(b) in relation to the house concerned, 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 25 January 2016, the Tenants 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 Tenants stated that the Tenants considered that the Landlords had failed to comply with their duty to ensure that the Property 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 Property has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.
  - (d) The Property has satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health.
3. By letter dated 6 April 2016 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 Tenants.
5. Following service of the Notice of Referral the Tenants made no further material written representation to the Committee other than their original application. The Landlords made written representations to the Committee via an email on 28<sup>th</sup> April 2016.

6. The Private Rented Housing Committee (comprising Mr E K Miller, Chairman and Legal Member and Mr D Godfrey, Surveyor Member) inspected the Property on the morning of 18 May 2016. The Tenants were present. The Landlords were not present during the inspection.
7. Following the inspection of the Property the Private Rented Housing Committee held a hearing at Caledonian House, Greenmarket, Dundee. Neither party was present nor represented.
8. The Tenants submission was that there was an issue with damp in the Property. The application from the Tenants highlights that there was a wet patch in the living room as well as mould and damp in both bedrooms. The Tenants also complained that there was only one fire alarm at the top of the stairs leading from the front door and no carbon monoxide detection system was present.
9. The Landlords submission via email of 28 April was that they were carrying out certain works to the Property to address issues raised by the Tenants.

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

10. The issues to be determined are:-
  - (1) Whether there was water penetration to the Property causing mould and damp in the Property.
  - (2) Whether the gutters were in proper working order.
  - (3) Whether there was a sufficient fire detection system within the Property.
  - (4) Whether there was a sufficient carbon monoxide detection system present.

#### **Findings of fact**

11. The Committee finds the following facts to be established:-
  - There did not appear to be any current water penetration to the Property. There were, however, issues in relation to mould and condensation within the Property.
  - There was one very minor leak to a gutter to the front of the Property which should be attended to, albeit it was not sufficient to merit a breach of the repairing standard.
  - There was a sufficient smoke detection system within the Property.
  - There were no gas appliances present within the Property and accordingly no carbon monoxide detection system was required.

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

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

The Committee first inspected the living room. The Tenant alleged that there were a number of wet patches that had come through above the top left hand side of the main window and also above the fireplace. Damp meter readings were taken and, at the time of the inspection, normal readings were obtained. There was no evidence of current water penetration.

The Committee inspected the window in the lounge and noted there was evidence of some damage to the woodwork arising from excessive condensation. The Committee noted that the windows were defective in that whilst trickle vents had been installed on the inside, they had not been properly completed and did not pass through to the exterior of the Property. Accordingly they were defective and did not allow any air to pass. The Committee subsequently noted that this was the same with all the windows in the Property and that they had been incorrectly installed in this regard. This would encourage condensation and would go some way to explaining the issues suffered by the Tenants.

The Committee also inspected the two bedrooms. Contractors from Wise Property Care had apparently attended at the Property in advance of the inspection and had carried out some treatment works in that they had wiped down condensation and mould marks and had applied a treatment to discourage further mould build up. The Committee noted that the Property had electric heaters throughout but these were of relatively poor quality and generally would not provide a great source of heating. Combined with the construction of the Property the Committee was of the view that this would give rise to a high level of condensation and mould/damp within the Property. Upon questioning the Tenants upon their use of the Property the Committee was satisfied that the Tenants were aware of the necessity to heat and air the Property and that the Tenants were not the primary cause of the excessive condensation.

The Tenants provided the Committee with information showing the Wise Property Care were intending to install a Nuaire Drimaster system which should significantly reduce condensation within the Property by removing moisture. A preparatory inspection had taken place in relation to the installation of the system but no works had started at the date of the inspection.

The Committee was of the view that it was appropriate for such a system to be installed to reduce the excessive condensation within the Property.

The Committee noted that a compliant fire alarm system had now been installed and according the Committee was satisfied that there was no breach of the repairing standard in this respect.

The Tenants had noted that there was no carbon monoxide alarms present in their application. However carbon monoxide alarms are only relevant where there are gas appliances. There were no gas appliances within the Property and accordingly there was no need to carbon monoxide alarms to be present. There was no breach of the repairing standard in this regard.

The Committee considered matters and determined that the Property breached the repairing standard in that the windows did not have sufficient ventilation due to the defective installation of the trickle vents. The Committee was also satisfied that there was a breach of the repairing standard in that the Property suffered from excessive condensation and a system to alleviate this required to be installed.

The Committee considered the timescale for the Landlords to carry out the necessary works and determined that a period of 28 days would be sufficient.

### **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 Landlords or Tenants 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 ..... **E Miller** ..... Date 25/5/16  
Chairperson