

## **Rent Relief Order**

**Ordered by the Private Rented Housing Committee**

Property at 31 Seatown, Gardenstown, Banff, AB45 3YQ ("the property")

Case Reference Number: PRHP/RP/15/0102

**Land Register No: BNF2023**

The Parties:-

Ms Melissa Grieff, residing at 31 Seatown, Gardenstown, Banff, AB45 3YQ  
("the tenant")

And

John William Scrudis and Mrs Sandra Anne Scrudis, residing formerly at Burn House, Burn Road, Portsoy, Banff, AB45 2XT, and now at 17 Schoolhendry Street, Portsoy, Aberdeenshire, AB45 2RS  
("the landlords")

**NOTICE TO JOHN WILLIAM SCRUDIS AND MRS SANDRA ANNE SCRUDIS, 17 Schoolhendry Street, Portsoy, Aberdeenshire, AB45 2RS**

In terms of their decision dated 14 December 2015, the Private Rented Housing Committee ("the Committee") determined in terms of Section 26(1) of the Housing (Scotland) Act 2006 ("the Act") that the Landlord has failed to comply with the Repairing Standard Enforcement Order in relation to the house made by the Committee.

The Committee determined to make a Rent Relief Order in terms of Section 27 of the said Act reducing the rent payable under the tenancy for the house by an amount of 75% of the monthly rent (being £337.50 per calendar month of the current monthly rent of £450) which would, but for the order, be payable. The rent reduction will take effect 28 days after the last date on which the decision to make the Rent Relief Order may be appealed under Section 64 of the said Act.

**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. Where the appeal is abandoned or finally determined by confirming the decision, the Rent Relief Order will take effect 28 days after the date on which the appeal is abandoned or the decision is confirmed.

**James Bauld**

James Bauld, Chairperson  
Private Rented Housing Committee

Date 14 December 2015

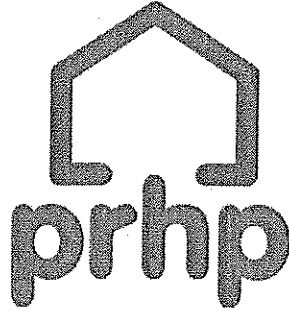
Signature of Witness.. **Emma Thomson**

Date 14 December 2015

Name: EMMA THOMPSON

Address: 7 West George Street, Glasgow, G2 1BA

Designation: TRAINEE SOLICITOR



**Determination by Private Rented Housing Committee**

Statement of Decision of the Private Rented Housing Committee

(Hereinafter referred to as "the Committee")

Under Section 25(1) of the Housing (Scotland) Act 2006

Case Reference Number: PRHP/RP/15/0102

**Re: Property at 31 Seatown, Gardenstown, Banff, AB45 3YQ**

**Land Register No: BNF2023**

**The Parties:-**

Ms Melissa Grieff, residing at 31 Seatown, Gardenstown, Banff, AB45 3YQ  
("the tenant")

And

John William Scrudis and Mrs Sandra Anne Scrudis, residing formerly at Burn House, Burn Road, Portsoy, Banff, AB45 2XT, and now at 17 Schoolhendry Street, Portsoy, Aberdeenshire, AB45 2RS  
("the landlords")

**The Committee comprised:-**

Mr James Bauld	-	Chairperson
Mr Angus Anderson	-	Surveyor Member
Mrs Linda Robertson	-	Housing Member

**Background:-**

1. On 13<sup>th</sup> July 2015 the Committee issued a Determination which decided that the landlords had failed to comply with the duties imposed by Section 14(1) of the Housing (Scotland) Act 2006 ("the 2006 Act"). On the same date the Committee issued a Repairing Standard Enforcement Order ("RSEO") in respect of the property.
2. The RSEO required the landlords to undertake certain works within three months of the date of the Order. The works required in terms of the RSEO were as follows:-

- To commission an appropriately qualified building and/or roofing contractor to investigate the nature and cause of the dampness found within the various rooms in the property and to identify relevant works required to eradicate the source of the dampness and to instruct an appropriate contractor to carry out all relevant works including necessary works to the roof and rainwater goods.
  - To carry out appropriate repairs to all windows on the upper floor to ensure that they are placed into a state where they are in a reasonable state of repair and in proper working order and to carry out a repair to the window within the kitchen of the property to ensure that the gap which was visible is eradicated.
  - To instruct an appropriately qualified contractor to carry out a standard electrical installation condition report on the property and to carry out any works which are shown to be necessary in terms of said report to bring the electrical installations and wiring throughout the property into a proper state of repair and to proper working order.
  - To install smoke alarms within the property which meet the current repairing standard which will require at least one smoke alarm on each level within the property which alarms should be hard wired and interlinked.
  - To carry out appropriate repairs to the external door to the basement to ensure that it is rendered to a proper state of repair and placed into proper working order.
3. On 13<sup>th</sup> October 2013, the surveyor member of the Committee re-attended at the property to carry out a re-inspection. A report of this re-inspection was prepared and was circulated to the parties. In terms of that report, the surveyor noted that the only item of work required by the RSEO which had been undertaken by the landlords was the fitting of hard wired smoke alarms to the dining room, the first floor landing and basement corridor and a heat detector being fitted to the lounge. The surveyor noted there was no evidence of any other works having been undertaken in respect of the other matters set out in the RSEO.
  4. The tenant responded to the re-inspection report by form dated 26<sup>th</sup> October 2015. She confirmed she agreed with the surveyor's report and confirmed her view that the majority of repairs remained outstanding. She stated that the damp conditions in the property had an adverse impact on her overall health and well-being and had damaged some of her belongings. She indicated she had taken independent advice regarding matters and was now withholding rent. She also indicated that the landlords had now served a notice to quit upon her and she intended to end her tenancy in mid-December. She asked the Committee to make a Rent Relief Order.
  5. The landlords responded to the re-inspection report by email which attached a letter dated 4<sup>th</sup> November 2015. They indicated that they agreed with the surveyor's report in respect of the hard wired fire alarm being fitted and working. They indicated they disagreed with the remainder of the report and indicated that in their view they had taken all possible steps to carry out the various repairs required in relation to gutters, dampness, upper windows, basement door and the Electrical Condition Report. They stated that they had difficulties in securing the services of qualified tradespeople during the summer period in a remote part of Scotland. They requested that the Committee extend the time for the repairs to be done until 30<sup>th</sup> June 2016. They also pointed out that Mr Scrudis had been given certain medical diagnoses and that they intended to cease business in Scotland and to go back to England to be closer to their family.
  6. The responses from each of the parties were communicated to the other party and they were each invited to make further representations. The tenant sent a further response to the Committee by email dated 11<sup>th</sup> November 2015, again intimating that her position was that the landlords had failed to take appropriate steps to carry out the repairs and in her view never had any real intention to implement any of the repairs required. She again asked the Committee to make a Rent Relief Order. She again indicated her intention to

vacate the property on or around 12<sup>th</sup> December. No further response was received from the landlords.

### **Decision**

7. The Committee reviewed the matters and in particular the re-inspection report provided by the surveyor member. The Committee noted the responses received from the various parties.
8. The Committee took the view that the landlords had failed to carry out the vast majority of the works required in respect of the RSEO. The Committee took the view that the landlords had sufficient time to carry out the works and that the landlords were simply deliberately ignoring the various parts of the RSEO which they had failed to carry out. While the Committee were sympathetic to the personal matters which had been raised by the landlords in their response, the Committee took the view that the landlords could have appointed a project manager and that they had ample time to obtain quotes and to proceed with the works.
9. Accordingly the Committee took the view that the landlords' failure to implement the works in the RSEO was a breach of the RSEO. In accordance with the relevant provisions of Section 25 of the 2006 Act the Committee required to determine whether a Rent Relief Order should be made.
10. The Committee took the view that the works required in this RSEO had been outstanding for a period of months. The Committee also took the view that these works could easily have been carried out during the period of time allowed in the RSEO. The Committee took the view that the failure to carry out the works was having an impact on the tenant's ability to fully enjoy the property. The Committee took the view that the landlords' failure to implement the RSEO was significant and in all the circumstances the Committee determined that a Rent Relief Order should be made.
11. The Committee carefully considered the level at which a Rent Relief Order should be made. The Committee took the view that the appropriate portion of rent which should be subject to the Rent Relief Order was 75% of the ongoing monthly rent and accordingly the Committee determined to make a Rent Relief Order in those terms.
12. The decision of the Committee was unanimous.

### **Rights of Appeal**

13. A landlord or tenant aggrieved by the decision of the Committee may appeal to the Sheriff by summary application within 21 days of being notified of that decision.
14. The appropriate respondent in such appeal proceedings is the other Party to the proceedings and not the PRHP of the Committee which made the decision.

### **Effects of Section 63**

15. Where such an appeal is made, the effect of the decision and of any Order made in consequence of it is suspended until the appeal is abandoned or finally determined.

16. Where the appeal is abandoned or finally determined by confirming the decision, the decision and the Order made in consequence of it are to be treated as having effect from the day on which the appeal is abandoned or so determined.

Signed **James Bauld** ...

Date *14 December 2015*

James Bauld, Chairperson

Signature of Witness **Emma Thomson**

Date *14 December 2015*

Name: *EMMA THOMSON*

Address: 7 West George Street, Glasgow, G2 1BA

Designation: *TRAINEE SOLICITOR*