



## Rent Relief Order

**Ordered by the Private Rented Housing Committee**

prhp Ref: PRHP/RP/15/0155

Re : Property at 6 Salutation House, Carsphairn DG7 3TQ ("the Property")

Land Certificate Number: KRK10261

**The Parties:-**

**Miss Zoe Marshall, 6 Salutation House, Carsphairn DG7 3TQ ("the Tenant") and**

**Ryan Maginess, 32 Masonfield Avenue, Cumbernauld G68 9DU and having a place of business at The Hub, Vicar Street, Falkirk FK1 1LL ("the Landlord")**

### **NOTICE TO RYAN MAGINESS ("the Landlord")**

Whereas in terms of their decision dated 28 October 2015, the Private Rented Housing Committee ("the Committee") determined, in terms of Section 26(1) of the Housing (Scotland) Act 2006 (the "said Act") that the Landlord has failed to comply with the Repairing Standard Enforcement Order in relation to the house made by the Committee on 18 August 2015.

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 50% of the rent 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.

In witness whereof these presents typewritten on this page are executed by George Barrie Clark, solicitor, Lasswade, chairperson of the Private Rented Housing Committee at Lasswade on 24 November 2015 before this witness, Valerie Elizabeth Jane Clark, Droman House, 5 School Brae, Lasswade, Midlothian.

**V Clark**      \_\_\_ witness

\_\_\_ **G Clark** \_\_\_ chairman



## **Statement of Decision of the Private Rented Housing Committee under Section 26 (2) of the Housing (Scotland) Act 2006**

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Re : Property at 6 Salutation House, Carsphairn DG7 3TQ ("the Property")

The Parties:-

Miss Zoe Marshall, 6 Salutation House, Carsphairn DG7 3TQ ("the Tenant")

Ryan Maginess, 32 Masonfield Avenue, Cumbernauld G68 9DU and having a place of business at The Hub, Vicar Street, Falkirk FK1 1LL ("the Landlord")

### **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 evidence led by the Tenant at the hearing, 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 12 May 2015, received on 14 May 2015, 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 his duty to ensure that the house meets the repairing standard and in particular that the Landlord had 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,
  - (c) the installations in the house 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 Landlord under the tenancy are in a reasonable state of repair and in proper working order, and
  - (e) the house has satisfactory provision for detecting fires and for giving warning in the event of a fire or suspected fire.
3. By letter dated 10 June 2015, 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 inspected the Property on the morning of 18 August 2015. The Tenant was present during the inspection. The Landlord was not present or represented during the inspection.
5. The Committee comprised George Clark (chairman) and Mike Links (surveyor member).
6. Following the inspection of the Property the Private Rented Housing Committee held a hearing at Kenbridge Hotel, Ayr Road, New Galloway, Castle Douglas and heard from the Tenant. The Landlord was not present or represented at the hearing.
7. Following the inspection and hearing, the Committee made a Repairing Standard Enforcement Order ("the Order"), requiring the Landlord:
  1. To obtain and exhibit to the committee an Electrical Installation Condition report in respect of the Property.
  2. To instruct suitably qualified electrical and plumbing contractors to complete the installation of the Triton Cara power shower in the bathroom.
  3. To instruct a suitably qualified central heating specialist to prepare a report on the central heating system in the Property, including thermostatic valves. The report must, in particular, include confirmation as to whether the boiler is in proper and safe working order, is adequately vented and whether the flue to the external wall of the Property is properly sealed. Any remedial work recommended in the report must be carried out, by suitably qualified tradesmen.
  4. To carry out such works as are necessary to bring the system within the Property for detecting fires and for giving warning in the event of fire or suspected fire up to the standard recommended in the Scottish Government's revised statutory guidance for smoke alarms in private lets and to the standard set out in the revised Domestic Technical Handbook.

The Private Rented Housing Committee ordered that the works specified in the Order must be carried out and completed within the period of four weeks from the date of service of the Notice of the Order.

8. The surveyor member of the Committee reinspected the Property on 30 October 2015. He reported to the Committee that none of the work required by the Order had been carried out.
9. A copy of the reinspection report, including photographs of the Property taken at the reinspection is attached to and forms part of this Statement of Decision.
10. A copy of the reinspection report was sent to the Parties. No comments on the report were received from the Landlord. A response was received from the Tenant on 16 November 2015, accepting the terms of the reinspection report.

### **Summary of the issues**

11. The issue to be determined was whether the Landlord had complied with the requirements of the Order.

### **Findings of fact**

12. The Committee finds the following fact to be established:-
  - None of the work required by the Repairing Standard Enforcement Order in respect of the Property made on 18 August 2015 has been carried out.

**Reasons for the decision**

- 13. The Committee was concerned that the complaints made by the Tenant and upheld by the Committee included a number of matters which could have an effect on the health and safety of the Tenant or any future occupant of the Property. The Landlord had made no effort to carry out the works required by the Order and it had, therefore, failed to comply with its terms.
- 14. The Committee decided that it was appropriate to make a Rent Relief Order and determined that the appropriate relief would be 50% of the monthly rent..

**Decision**

- 15. The Committee determined that the Landlord had failed to comply with the Repairing Standard Enforcement Order in respect of the Property, that notice of the failure to comply should be served on the local authority and that a Rent Relief Order should be made, all in terms of Section 26(2) of the Act.
- 16. The decision of the Committee was unanimous.

**Right of Appeal**

- 17. 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**

- 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.

Signed ..... **G Clark** ..... Date... 25/11/2015 .....  
Chairperson.