



Rent Relief Order

Ordered by the Private Rented Housing Committee

prhp Ref: PRHP/IV44/155/10

Re: Property at Torr Sitheig, Teangue, Sleat, Isle of Skye, IV44 8RE ("the Property")

The Parties:

WILLIAM CORBETT residing at Torr Sitheig, Teangue, Sleat, Isle of Skye, IV44 8RE ("the Tenant")

THE EXECUTORS OF THE ESTATE OF THE LATE SIR IAIN ANDREW NOBLE lately residing at Ardkinglas and Eilean Iarmain, Baronet, Fearnan Eilean Iarmain, and An t-Eilean Sgitheanach, Isle of Skye the Executors being Lady Noble, Christopher Mackenzie, James Galbraith, Nigel Pollock and Robin Malcolm all c/o Gillespie MacAndrew LLP, 5 Atholl Crescent, Edinburgh, EH3 8EJ ("the Landlord")

NOTICE TO ("the Landlord")

Whereas in terms of their decision dated 3 July 2013, 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 Property 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 90% 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 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 3 July 2013 before this witness:-

L Johnston

witness

E Miller

Chairman

Lindsay Johnston
Secretary
Thorntons Law LLP
Whitehall House
33 Yeaman Shore
Dundee
DD1 4BJ



**Statement of decision of the Private Rented Housing
Committee under Sections 26 and 27 of the Housing
(Scotland) Act 2006**

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Background

1. On 19 April 2011 The Private Rented Housing Committee ("the Committee") issued a Determination which decided that the Landlord had failed to comply with the duty imposed by Section 14(1) of the Housing (Scotland) Act 2006 ("the Act"). On the same date, the Committee issued a Repairing Standard Enforcement Order ("RSEO") in respect of the Property. The RSEO made by the Committee required the Landlord:-
 - (a) To carry out such steps as are necessary to eradicate the rising damp within the walls and floors of the Property;
 - (b) To repair or replace any defective floorings within the Property;
 - (c) To carry out such repair or replacement works as are necessary to render the front door, windows and skylights within the Property properly wind and watertight and capable of being opened and shut properly.
 - (d) Repair or replace the defective wall and roof linings within the Property.
 - (e) Carry out such works as are necessary to render the exterior and roof of the Property wind and watertight and generally to meet the repairing standard.
 - (f) To install suitable banisters and railings for the stairs leading to the first floor and to repair any broken stair treads.
 - (g) To carry out such works as are necessary to render the fireplace and surrounds together with the flues, chimney breasts and stacks compliant with the repairing standard.
 - (h) To demolish the bathroom extension at the Property and to replace with a suitable replacement building and to install appropriate bathroom fittings.
 - (i) To carry out such works as are necessary to repair the rainwater disposal system.

- (j) To repair or replace the lean-to garage at the Property.
 - (k) To install a hardwired interlinked smoke detection system within the Property sufficient to meet current regulations.
 - (l) To provide an electrical safety certificate from a suitably qualified electrician confirming that the Property is compliant with current regulations upon completion of the various works referred to in this Repairing Standard Enforcement Order.
 - (m) After completion of the above works to carry out such redecoration as is required to decorate the Property to an appropriate standard.
2. The Committee had ordered in the RSEO that the works specified were to be carried out and completed within 8 months. An extension had subsequently been given to the Landlord to give more time for the issues between the Landlord and Tenant to be addressed.
 3. On 1st July 2013 Mr E Miller (Chairman and Legal Member) and Mr R Buchan (Surveyor Member), being the members of the original Committee, attended at the Property. The Tenant was not present at the Property and the Committee was, therefore, unable to obtain access. The Landlord was not present nor represented at the Inspection.
 4. Notwithstanding that access to the interior of the Property had not been granted, it was readily apparent to the Committee that the works had not been carried out. The RSEO required the rear bathroom extension to be demolished and rebuilt. This had not occurred as the original extension was still in situ. The lean-to garage had not been repaired or replaced. No works had been carried out to the rainwater disposal system. The exterior and roof of the Property had no works carried out to it, other than some basic damp proofing works carried out along the front wall of the Property by the Tenant. In addition, both parties had, in their written submissions given in advance of the re-inspection, confirmed that, other than some minor works carried out by the Tenant, nothing had been done since the date of the original RSEO.
 5. The Committee subsequently held a Hearing at the Gaelic College, Skye to take evidence from the parties. The Tenant was not present nor was he represented. Mr Malcolm Younger of CKB Galbraith, Land Agents appeared for the Landlord. Mr Younger submitted that the Estate was in a difficult position. Whilst he hoped that the position would change shortly, the Estate did not currently have any funds with which to address the issues identified by the RSEO. The Estate was content to let the Tenant remain in the Property and, at the present time, did not intend to charge any rent. Mr Younger did accept that there were some safety issues i.e. the lack of smoke alarms within the Property and it would be prudent for the Estate to address at least the safety aspects contained within the works required by the RSEO.
 6. The Committee then considered what steps to take. In terms of Section 26(1) of the Act it is for the Committee to decide whether the Landlord had complied with an RSEO made by the Committee. In terms of sub-section (2), where the Committee decides that a Landlord has failed to comply with an RSEO the Committee must (a) serve notice of the failure on the local authority and (b) decide whether to make a Rent Relief Order.
 7. The Committee, after discussion, accepted that it was clear, given that no works had been undertaken at all, that the Landlord had failed to comply with the RSEO. Accordingly the Committee was obliged to serve notice of the failure on the local authority and resolved to do so.
 8. The Committee then decided whether or not to make a Rent Relief Order. The Committee considered the condition of the Property. One of the primary concerns of the Committee related to safety issues. There were no hardwired interlinked smoke alarms within the Property. There was no satisfactory Electrical Installation Condition Certificate for the

Property. The stairs to the first floor had no banister and broken stair treads. These were all significant safety issues in addition to the general high level of disrepair of the Property throughout. The general level of disrepair meant the Property would be extremely uncomfortable to live in. In the circumstances, the Committee felt a Rent Relief Order was appropriate. The Committee took into account that no rent was being paid and that alternative accommodation had been offered by the Landlord but declined by the Tenant. Taking all of the above matters into account, the Committee resolved to grant a Rent Relief Order at 90%, being the maximum allowable.

9. The Committee also considered the terms of Section 28 of the Act. Sub-section (1) specified that the Landlord who, without reasonable excuse, fails to comply with an RSEO commits an offence. Whilst the Landlord had given the explanation that they did not have sufficient funds to attend to the works, this was not a sufficient excuse in terms of the Act. In the circumstances, and whilst the Committee had some sympathy for the position both parties found themselves in, the Committee was of the view that they had no option but to consider that Section 28(1) had been breached and therefore also resolved to report the matter to the Police.

Decision

10. The Committee determined that in terms of the Act the Landlord had failed to comply with the RSEO. The Committee determined to serve a notice of failure to comply with the RSEO on the relevant local authority within which the Property was situated and to report the matter to the Police for consideration for prosecution.
11. The decision of the Committee was unanimous.

Right of Appeal

12. 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

13. 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 **3/7/13**
Chairperson