



## Rent Relief Order

### Ordered by the Private Rented Housing Committee

prhp Ref: PRHP/PH22/170/10

RE: Property at Lairig View Cottage, Aviemore, Inverness-shire, PH22 1QD ("the Property")

**The Parties:**

**PHILIP MULLINS** residing at Lairig View Cottage, Aviemore, Inverness-shire, PH22 1QD ("the Tenant")

**ANGUS MACKINTOSH SMITH** residing formerly at Lairig View Cottage, Aviemore, Inverness-shire, PH22 1QD and now at 22 Old Mill Place, Tattenhall, Chester ("the Landlord")

#### NOTICE TO ("the Landlord")

Whereas in terms of their decision dated 24 November 2011 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 Property 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 Property, 33 Yeaman Shore, Dundee, DD1 4BJ, Chairperson of the Private Rented Housing Committee at Dundee on 24 November 2011 before this witness:-

**L Johnston**

witness

**E Miller**

Chairman

Lindsay Johnston  
Secretary  
Thorntons Law LLP  
Whitehall Property  
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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RE: Property at Lairig View Cottage, Aviemore, Inverness-shire, PH22 1QD ("the Property")

### The Parties:-

PHILIP MULLINS residing at Lairig View Cottage, Aviemore, Inverness-shire, PH22 1QD ("the Tenant")

ANGUS MACKINTOSH SMITH residing formerly at Lairig View, Aviemore, Inverness-shire, PH22 1QD and now at 22 Old Mill Place, Tattenhall, Chester ("the Landlord")

### 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. 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 to carry out such works as were necessary:-
  - (a) To install a proper septic tank and sewerage connected to the Property compliant with the relevant regulations.
  - (b) To repair or replace the windows at the Property to ensure that they are properly wind and watertight and capable of opening and shutting smoothly.
  - (c) To repair or replace the rainwater disposal system within the Property to ensure that it is in proper working order.
  - (d) To replace the front door leading to the hall at the Property and to ensure that the replacement is properly wind and watertight and in working order.
  - (e) To replace the porch roofs at the front of the Property and to ensure that the replacements are properly wind and watertight.
  - (f) To overhaul the main roof of the Property and carry out such repair or replacement as is necessary to render the roof of the Property properly wind and watertight.
  - (g) To carry out such works as are necessary to the main frame and foundations of the Property as are necessary to ensure that it is properly wind and watertight and to improve the insulation within the walls of the Property sufficient to render the Property fit for human habitation.
2. The Committee had ordered in the RSEO that the works specified were to be carried out and completed by 31 August 2011.

3. On 9 September 2011 Mr C Hepburn, the Surveyor Member of the original Committee carried out a reinspection of the Property. The Tenant was present. The Landlord was not present.
4. It was readily apparent to the Surveyor Member that no works at all had been carried out since the original inspection and the issuing of the RSEO. The Tenant advised the Surveyor Member that there had been no contact from the Landlord to him. As far as the Tenant was aware, no tradesmen had called to inspect the Property nor had any works been carried out that he was aware of.
5. Subsequent to the reinspection a copy of the Surveyor's Report was circulated to both parties and they were invited to make comments. No response was received from the Landlord.
6. The Committee then considered what steps to take. In terms of Section 26(1) of the Housing (Scotland) Act 2006 it was for the Committee to decide whether a landlord has complied with a Repairing Standard Enforcement Order made by the Committee. In terms of sub-section 2 where the Committee decides that a landlord has failed to comply with the Repairing Standard Enforcement Order, the Committee must (a) serve notice of the failure on the local authority and (b) decide whether to make a Rent Relief Order.

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 were obliged to serve notice of the failure on the local authority and resolved to do so.

The Committee then decided whether or not to make a Rent Relief Order. The Committee considered the condition of the Property. This was one of the poorest properties the Committee had seen. The external fabric of the building was very poor and the building was far from being wind and watertight. The Committee were also very concerned that there was no proper sewage disposal system and sewage from the Property was effectively discharging in to an open hole in the ground. This was a health hazard. In the circumstances the Committee felt obliged to make a Rent Relief Order.

The Committee then considered what level of Rent Relief Order would be appropriate. Given the extensive works that were required to the Property. The Committee considered that this would have a significant effect on the Tenant's reasonable enjoyment of the Property. The Property was clearly not wind and watertight and in poor condition. There were health and safety issues as well. The Committee also considered that the Landlord had not engaged with the Committee in the process and had given no indication that he intended to carry out any works. He had blatantly disregarded the terms of the RSEO. In these circumstances the Committee felt they had no option but to impose the maximum Rent Relief Order of 90%.

The Committee also considered the terms of Section 28 of the Housing (Scotland) Act 2006. Sub-section 1 specifies that a landlord who, without reasonable excuse, fails to comply with an RSEO commits an offence. There had been no indication from the Landlord as to why they had failed to carry out any steps to comply with the RSEO. In the circumstances the Committee were of the view that Section 28(1) had been breached and therefore also resolved to report the matter to the Police for consideration for prosecution.

#### **Determination**

7. 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.
8. The Committee proceeded to make a Rent Relief Order in terms of Section 27 of the Act, which Order shall 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 Act. The decision of the Committee was unanimous.

**Right of Appeal**

9. 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**

10. 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 Miiler** ..... Date *26/11/11* .....  
Chairperson