



## Decision by the Private Rented Housing Committee

### Statement of decision of the Private Rented Housing Committee under Section 24 (1) of the Housing (Scotland) Act 2006

**Re: The residential dwellinghouse at 28 Allison Street, Carstairs Junction, Carstairs, Lanark ML11 8RG (“the Property”)**

#### **The Parties:-**

**Mr John Bowie resident at the Property  
 (“the tenant”)**

**and**

**Ms Charlotte Low, per  
JMP Lettings & Property Management  
46 Bloomgate  
Lanark  
South Lanarkshire  
ML11 9ET  
 (“the landlord”)**

#### **The Committee’s Decision**

The Committee, having made further enquiries as it saw fit for the purposes of determining whether the landlord had complied with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 (“the Act”) in relation to the Property, unanimously determined that the landlord had failed to comply with the duty imposed by Section 14(1)(b).

The Committee agreed 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 25% 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.

#### **The Background**

1. On 8 September 2008 the tenant applied to the Private Rented Housing Panel (“the PRHP”) for a determination as to whether or not the landlord had failed to comply with the duties imposed by Section 14(1)(b) of the Act.

2. Following receipt of the tenant's application, the President of the PRHP intimated that the application should be referred to a Private Rented Housing Committee in accordance with Section 22(1) of the Act.
3. The Committee served Notice of Referral on the landlord and on the tenant in accordance with the terms of Schedule 2, Paragraph 1 of the Act.
4. The Committee inspected the Property on 18 November 2008 at 10.15am. The tenant and his wife were both present during the inspection as was Mr Lezar on behalf of the landlord. The tenant and Mr Lezar attended a Hearing after the inspection.
5. Following that Hearing the Committee found the following facts to be established:-
  - On 1 August 2007 the tenant (and his wife) and the landlord entered into a Tenancy Agreement which related to the property.
  - The property is a two storey semi detached house with a hall, living room, two bedrooms, kitchen and bathroom.
  - The roof of the property is a traditional slate roof with stone ridge tiles. The roof was not in a reasonable state of repair and, as a consequence of the poor state of repair, parts of the hip concrete ridge tiles/cement/debris had been falling from the roof and landing in the garden area.
  - The gutters had blockages caused as a result of growth of vegetation. Some of the joints in the guttering were leaking. A section of the collar on the downpipe was missing. The gutters and the external down pipes were not in a reasonable state of repair.
  - There were gaps in the laminate flooring in the kitchen. Repairs had been carried out in January 2008 (by the landlord) but they were not effective, cause a hazard to users and rendered the kitchen not fit for human habitation.
  - There was dampness in the living room (at the wall nearest the internal door which led to the rear external door). The Committee could not ascertain if this was due to condensation or as a result of a defect in an upper floor window.
  - The vinyl floor covering in the bathroom doorway was not secured to the floor and was not in a reasonable state of repair and rendered the bathroom not fit for human habitation.
  - The windows in the property are double glazed. There was water ingress in the rear window in the second bedroom. The seals within a number of the window frames throughout the property had been breached. They were not wind and water tight.
  - The washing machine (in the kitchen) leaks and was not in proper working order.

- At the time of entering the Tenancy Agreement, a blind was installed in the kitchen for the use of the tenant. At the time of the inspection the blind was not in proper working order.
  - There were some uneven floorboards in the master bedroom and in the hallway (at the top of the stairs).
  - There were two smoke alarms within the property – one downstairs and one on the upper landing. Both devices were battery operated and functioned independently of each other. These devices did not comply with the relevant building regulations and the guidance issued by Scottish Ministers.
  - The tenant was supplied with a fire extinguisher at the time of entering the Tenancy Agreement. This device had not been tested/checked since January 1994. The device was not in proper working order.
  - The central heating boiler was located in the rear garden area immediately under the living room window. The Committee was unable to determine whether or not the installation for the supply of heating in the property met the Repairing Standard and requested that an expert report be prepared and made available to the Committee.
  - The faucet in the kitchen sink was leaking and was not in proper working order.
  - The lower hinge in the living room door (leading to the front hallway) was loose and the door did not close properly.
6. The Committee proceeded to make a Repairing Standard Enforcement Order (dated 12 January 2009) as required by section 24(1) of the Act.
7. The decision of the Committee was unanimous.

#### **The Re-inspection/Re-convened Hearing**

8. On 14 January 2010 the Committee re-inspected the Property in the presence of the tenant.
9. Following the re-inspection the Committee found that all the issues detailed in the Repairing Standard Enforcement Order of 12 January 2009 (and the subsequent variation of that Order) had been remedied by the landlord with the exception of the works required to ensure that the roof (including the slates, ridge tiles, gutters and downpipes) was in a reasonable state of repair and proper working order. Consequently the Committee found that the landlord had failed to comply with the Repairing Standard Enforcement Order of 12 January 2009.

#### **Decision**

10. The Committee determined that the landlord had failed to comply with the duty imposed by section 14(1)(b) of the Act.

11. The Committee proceeded 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 20% of the rent which would, but for the order, be payable.
12. The decision of the Committee was unanimous.

**Right of Appeal**

13. A landlord or tenant aggrieved by the decision of a PRHP Committee may appeal to the Sheriff by summary application within 21 days of being notified of that decision.

**Effect of section 63**

14. 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 decision and the Order will be treated as having effect from the day on which the appeal is abandoned or so determined.

Signed..... **R Handley** ..... Date..... 6 March 2010  
Chairperson



## Rent Relief Order

**Ordered by the Private Rented Housing Committee**

prhp Ref: prhp/ML11/70/08

**Re: 28 Allison Street, Carstairs Junction,  
Carstairs, Lanark ML11 8RG  
(hereinafter referred to as "the Property")**

**The Parties:-**

**Mr John Bowie resident at the Property  
("the tenant")**

**and**

**Ms Charlotte Low, per  
JMP Lettings & Property Management  
46 Bloomgate  
Lanark  
South Lanarkshire  
ML11 9ET  
("the landlord")**

### **NOTICE TO THE LANDLORD**

Whereas in terms of their decision dated 14 January 2010, 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 25% 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 page are executed by Ronald G Handley, solicitor, chairperson of the Private Rented Housing Committee at Dunbar on 6 March 2010 before this witness:-

<sup>R Handley</sup>  
**I McKay** \_ witness

**R Handley** \_ chairman

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MEDICAL PRACTITIONER occupation