



Rent Relief Order

Ordered by the Private Rented Housing Committee

prhp Ref: PRHP/AB45/94,95,96&97/11

Re : Property at 4, 5, 6 and 8 Ladysbridge Cottages], Banff, Aberdeenshire, AB45 2JR ("the Properties")

The Parties:- Mr Robert Cruickshank residing at 4 Ladysbridge Cottages, Banff, Aberdeenshire, AB45 2JR;

Mr Rudolph May, residing at 5 Ladysbridge Cottages, Banff, Aberdeenshire, AB45 2JR;

Mr Brian Ritchens, residing at 6 Ladysbridge Cottages, Banff, Aberdeenshire, AB45 2JR; and

Mr Phillip Glover residing at 8 Ladysbridge Cottages, Banff, Aberdeenshire, AB45 2JR;

(collectively "the Tenants") as represented collectively by their agent Choices Care (in Administration), OICES House, Rosebank Park, Kirkton Campus, Livingston, EH54 7AN

Cothrom Housing Limited, 15 Atholl Crescent, Edinburgh, Midlothian, EH3 8HA ("the Landlord")

Camvo 37 Limited, 64 Dalziel Street, Motherwell, North Lanarkshire, Scotland, ML1 1PJ ("the Proprietor").

NOTICE TO COTHROM HOUSING LIMITED ("the Landlord")

Whereas in terms of their decision dated 15 December 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 Properties 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 Properties by an amount of 60% 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 15 December 2011 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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Aberdeenshire, AB45 2JR ("the Properties")

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(collectively "the Tenants") as represented collectively by Choices
Care (In Administration), OICES House, Rosebank Park, Kirkton
Campus, Livingston, EH54 7AN

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Lanarkshire, Scotland, ML1 1PJ ("the Proprietor").

Background

1. On 13th September 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:-

- (a) to carry out such works as are necessary on the Properties to the downpipes and gutters to prevent them leaking and to clear the said downpipes and gutters of debris out to allow a free flow of water;
- (b) to carry out such works as are necessary on the Properties to ensure that the roofs are properly wind and water tight by repairing

or replacing any slipped or missing slates on the roofs of the Properties;

- (c) to carry out such works as are necessary to ensure the roofs are properly wind and water tight by repairing or replacing the cement pointing at the ridge line on the Properties;
 - (d) to carry out cement pointing to the skew and gable walls at Cottage 4 to ensure that the Property is properly wind and water tight;
 - (e) to remove all weed growth around the chimney between Cottages 5 and 6 and to carry out any repair works required to ensure no further water penetration. The Landlords will also require to carry out any redecoration works required to the internal rooms adjacent to the chimney of Cottages 5 and 6 as a result of water penetration; and
 - (f) in relation to Cottage 8 to replace the missing fascia board on the rear dormer window sufficient to render the Cottage wind and water tight.
2. The Committee had ordered in the RSEO that the works specified were to be carried out within 28 days of receipt of the original RSEO.
 3. On 9th November 2011 Mr Colin Hepburn, the Surveyor Member of the Committee, carried out a reinspection of the Property. The Tenants were present and access was provided by a representative. The Landlord was not present nor represented.

It was readily apparent to the Surveyor Member that no works at all had been carried out since the original inspection and the imposition of the RSEO. The Tenants' representative advised the Surveyor Member during the reinspection that no tradesmen had visited the site. The Tenants had recently received a letter from the Landlord to the effect that until such time as rent arrears were addressed no repairs would be carried out by the Landlord.

4. Subsequent to the reinspection a copy of the Surveyor's Report was circulated to both parties and they were invited to make comments. It was noted that the Tenants' representative, Choices Care, had gone into administration but was still dealing with managing the properties on behalf of the Tenants. The Landlord submitted information in relation to a dispute over rental arrears. Meetings were ongoing between the Tenants' representatives, the Landlord, Aberdeenshire Council and the First Minister to try and resolve this.
5. The Committee then considered what steps it could take. In terms of Section 26(1) of the Housing (Scotland) Act 2006, it was for the Committee to decide whether the Landlord has complied with the RSEO made by the Committee. In terms of sub-section (2) where a 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 relevant 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.

6. The Committee then decided whether or not to make a Rent Relief Order. The Committee considered the Landlord's point that there were extensive rent arrears in this matter. The Committee were satisfied, however, that the linking of timeous payment of the rent with the obligation to maintain the Property was incorrect on the part of the Landlord. The repairing standard as set out in the Housing (Scotland) Act 2006 exists to ensure that properties are maintained to an appropriate level at all times during the course of the tenancy. At no point in any legislation was there an indication that a failure of a tenant to pay rent in any way lifted the responsibilities upon a landlord to maintain properties to the repairing standard. The Committee were also aware from the Landlord's submissions that the Landlord's lenders were involved in discussions. Again, financial difficulties facing a landlord do not remove the obligations upon a landlord to comply with the repairing standard. If a party wishes to be involved in private rented housing then they need to ensure that they have sufficient funds at all times to comply with their statutory obligations. The Committee, whilst having some sympathy with the Landlord's position, were of the view that their submission did not provide a reasonable excuse for having failed to comply with the RSEO.
7. The Committee decided that a Rent Relief Order of 60% was appropriate in the circumstances. In coming to this figure the Committee noted that the Landlord had failed to carry out any works whatsoever. The Tenants at the properties, as the Landlord was well aware, were vulnerable adults and should not be exposed to issues of disrepair. Chunks of cement were coming away from the roof ridge and falling into the gardens and this represented a health and safety hazard. The Committee, however, were conscious that, apart from that risk, generally the properties internally were still habitable and the outstanding repairs were not, at this stage, impacting overly on the Tenants' ability to live in the properties. For that reason the Committee reduced the level of the Rent Relief Order from the maximum 90% to 60%.
8. The Committee also considered the terms of Section 28 of the Housing (Scotland) Act 2006. Sub-section (1) specifies that the Landlord who, without reasonable excuse, fails to comply with an RSEO commits an offence. 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

9. 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.
10. 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.

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..... *15/12/11*
Chairperson