



## Repairing Standard Enforcement Order

### Ordered by the Private Rented Housing Committee

PRHP/RP/15/0007

Search Number 2015-00537791

Re:

The residential dwelling house at 12 Elgin Road, Lossiemouth, Elgin IV31 6EE as described in a Feu Disposition to James Donald Cameron and another recorded on 4 February 1992

("the Property")

The Parties:-

**Mrs Margaret Penrice**  
Formerly resident at the Property

("the Tenant")

and

**Mr C Wattiez**  
C/o Belvoir (Moray) Ltd  
22 Thunderton Place  
Elgin  
IV30 1BG

("the Landlord")

### NOTICE TO THE LANDLORD

The Committee comprised:

Mr Ron Handley – Chairperson  
Mr Colin Hepburn – Surveyor

### NOTICE TO THE LANDLORD

Whereas in terms of their decision dated 14 July 2015, the Private Rented Housing Committee ("the Committee") determined that the Landlord had failed to comply with the duty imposed by Section 14(1) (b) of the Housing (Scotland) Act 2006 and had failed to ensure that the structure and exterior of the Property was wind and water tight.

The Committee now requires the Landlord to carry out such works as are necessary for the purposes of ensuring that the Property meets the Repairing Standard and that any damage caused by the carrying out of any work in terms of this Order is made good.

In particular the Committee requires the Landlord to:

- replace the external front door;
- repair the door seals surrounding the back door;
- replace the water heater controller (or produce documentary evidence to show that it has been replaced with a new unit).

The Committee orders that the works specified in this Order must be carried out and completed within the period of 4 weeks from the date of service of this Notice.

**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, 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.

In witness whereof this and the preceding page are subscribed by Ronald G Handley, Solicitor, Chairperson of the Committee at Dunbar on the fourteenth day of July 2015 before this witness:-

**J. Handley**

**R. Handley**

JANE HANDLEY Name in full

LESLIE WAY Address of witness

DUNBAR

CULLAGE MANAGER Occupation



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

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**The Committee comprised:**

Mr Ron Handley – Chairperson  
Mr Colin Hepburn – Surveyor

**The Committee's Decision**

The Committee, having made such enquiries as it saw fit for the purpose 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, and taking account of the evidence before it, unanimously determined that the Landlord had not complied with the duty imposed by Section 14(1) (b).

**Background**

1. On 8 January 2015 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. On 9 February 2015 the President of the PRHP referred the application to the Committee.

**The Application**

3. In her application the Tenant alleged that the Landlord had failed to comply with the duty to ensure that the Property met the Repairing Standard (as defined in the Act). It was submitted that the Landlord had failed to ensure that the Property was wind and water tight and in all other respects reasonably fit for human habitation and that the structure and exterior of the Property was in reasonable state of repair. It was also suggested that the installations for the supply of heating water were not in proper working order.
4. In particular it was submitted that the gutter required repair or replacement, the front door required to be replaced and the back door required to be repaired. Finally it was submitted that that the water heater controller required to be replaced.

**The Evidence**

5. The Committee had before it a bundle of documents which included Land Register documents, a copy of the Lease between the Tenant and the Landlord, a copy of the Application Form and copies of various e-mails and letters.

**The Inspection**

6. The Committee inspected the Property at 10.00 hrs on 28 April 2015. The Tenant was not present at the inspection and the Landlord was represented by Mr Alasdair Millar, Belvoir (Moray) Ltd.

**The Hearing**

7. A Hearing was arranged to take place after the inspection at 11.00 hrs in the Lossiemouth Sports and Community Centre, Coularbank Road, Lossiemouth. However in the course of the inspection Mr Millar intimated that he did not wish to attend the Hearing. No other persons attended at the Hearing venue and the Hearing did not proceed.

**Summary of the issue**

8. The issue to be determined by the Committee was whether the Landlord had complied with the requirements of the Act to ensure that the Property met the Repairing Standard.

**Findings**

9. The Committee found the following facts to be established:
  - The Property is an end terraced single storey dwelling house.
  - On 13 May 2013 the Tenant and the Landlord entered into a Lease Agreement that related to the Property.
  - The Tenant vacated the Property on or around 14 May 2015. At the time of the inspection the Property was unoccupied.
  - The water heater controller is not in proper working order.
  - The gutters are in a reasonable state of repair and in proper working order.
  - The front external door is not in a reasonable state of repair or in proper working order and requires to be replaced.
  - The seals around the back external door are not in a reasonable state of repair or in proper working order.

**Reasons for the Decision**

10. In the course of the inspection Mr Millar drew the attention of the Committee to the water heater controller and advised that he understood that it had been replaced. The Committee were unable to test the water heater controller but Mr Millar undertook to provide the Committee with invoices to confirm that the hot water controller within the Property at the time of the application had since been replaced by a new unit. No such documents were subsequently made available to the Committee. In all these circumstances the Committee were not satisfied that the water heater controller was in proper working order.
11. The weather on the day of the inspection was dry. The Committee was unable to fully inspect the gutters but from an inspection at ground level, the Committee noted that the gutters appeared to be in proper working order. There was no evidence to suggest that the gutters were blocked or would overflow. There was no evidence of dampness in the external walls. It was clear to the Committee that although the gutters would benefit from routine maintenance they were in proper working order.

12. In regard to the front external door the Committee noted that the door had been affected by water ingress and consequently the door had swollen and did not fit properly. There was also evidence of water penetration in other parts of the door including the area around the letter box. Furthermore, there was evidence of water ingress on the floor and the walls at the foot of the door. The Committee concluded that the door could not be repaired and required to be replaced.
13. In regard to the back door the Committee noted that the door was generally in a reasonable state of repair. However it was clear that the seals surrounding the door were not in proper working order and require to be replaced.
14. The Committee found that the Repairing Standard had not been met and the Committee proceeded to make a Repairing Standard Enforcement Order.

**Decision**

15. The Committee determined that the Landlord had failed to comply with the duty imposed by section 14(1) (b) of the Act.
16. The decision of the Committee was unanimous.

**Right of Appeal**

17. A Landlord(s) or Tenant(s) 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 of the Act**

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. 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 14 July 2015  
Chairpers