



## Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

prhp Ref: PRHP/AB42/201/12

Re: Property at 6 Queens Road, Boddam near Peterhead, AB42 3AX ("the Property")

Title No: ABN108205

### The Parties:-

ANNE ROBERTS residing at 5 Inchmore Gardens, Boddam, Peterhead and ALEXANDER JAMES STEPHEN residing at Lauderdale, Rocksley Drive, Boddam, Peterhead as Executors of Margaret Stephen ("the Landlords")

MR ALLISTER GRANT and MRS DAWN GRANT residing at 6 Queens Road, Boddam Peterhead, AB42 3AX ("the Tenants")

### NOTICE TO ANNE ROBERTS and ALEXANDER J STEPHEN ("the Landlord")

Whereas in terms of their decision dated 21 January 2013, the Private Rented Housing Committee determined that the landlord has failed to comply with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 and in particular that the landlord has failed to ensure that the property is:-

- (a) The Property is wind and watertight and in all other respects reasonably fit for human habitation;
- (b) The structure of and exterior of the Property (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order;

the Private Rented Housing Committee now requires the landlord to carry out such work as is necessary for the purposes of ensuring that the house concerned 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 Private Rented Housing Committee requires the landlord:-

1. To carry out such works to the exterior of the Property as are necessary to render it properly wind and watertight.
2. Once the works referred to in 1. above have been carried out to the exterior, to carry out such works as are necessary to render the inside of the Property free and clear of damp and to carry out any redecoration required as a result of the works.

The Private Rented Housing Committee order that the works specified in this Order must be carried out and completed within the period of 4 months 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 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 21 January 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 Section 24 (1) of the Housing (Scotland) Act 2006

prhp Ref: PRHP/AB42/201/12

Re: Property at 6 Queens Road, Boddam near Peterhead, AB42 3AX ("the Property")

### The Parties:-

MR ALLISTER GRANT and MRS DAWN GRANT residing at 6 Queens Road, Boddam Peterhead, AB42 3AX ("the Tenants")

ANNE ROBERTS residing at 5 Inchmore Gardens, Boddam, Peterhead and ALEXANDER JAMES STEPHEN residing at Lauderdale, Rocksley Drive, Boddam, Peterhead as Executors of Margaret Stephen ("the Landlords")

### Decision

The Committee, having made such enquiries as it saw fit for the purposes of determining whether the Landlords have complied with the duty imposed by Section 14 (1)(b) in relation to the house concerned, and taking account of the evidence led by the parties, determined that the Landlords had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

### Background

1. By application dated 23 October 2012 the Tenants applied to the Private Rented Housing Panel for a determination of whether the Landlords had failed to comply with the duties imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 ("the Act").
2. The application by the Tenants stated that the Tenants considered that the Landlords had failed to comply with his duty to ensure that the house meets the repairing standard and in particular that the Landlords had failed to ensure that:-
  - (a) The Property is wind and watertight and in all other respects reasonably fit for human habitation;
  - (b) The installations in the Property for the supply of water, gas and electricity and for sanitation, space heating and heating water are in a reasonable state of repair and in proper working order;
3. By letter dated 8 November 2012 the President of the Private Rented Housing Panel intimated a decision to refer the application under Section 22 (1) of the Act to a Private Rented Housing Committee.
4. The Private Rented Housing Committee served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon both the Landlords and the Tenants.
5. Following service of the Notice of Referral the Tenants made a further written representation dated 22 November 2012, clarifying some of the details in their original application. The Landlords agent (Scotcraft Leasing, 17 Rose Street, Peterhead) made written representation to the Committee via email dated 20 November 2012.

6. The Private Rented Housing Committee (comprising Mr E K Miller, Chairman and Legal Member, Mr M Andrew, Surveyor Member and Mr J Wolsencroft, Housing Member, accompanied by the Clerk Mr D Barclay) inspected the Property on the morning of 15 January 2013. The Tenants were present. The Landlords were not present nor represented.
7. Following the inspection of the Property the Private Rented Housing Committee held a hearing at The Palace Hotel, Peterhead and heard from the Tenants. The Landlords were not present nor represented. The Tenants represented themselves.
8. The Tenants submitted that the Property was suffering from excessive damp. The Tenants acknowledged that the gas central heating system had been upgraded and was now working properly. The broken cooker within the Property had also been attended to since the application. Missing roof slates had been attended to although there were still one or two missing. The Tenants acknowledged that some other roof repairs had been carried out. However the damp within the Property had not disappeared and over the last few weeks had worsened with new damp patches appearing. The Tenants were adamant that they had never stated to the Landlords agent that they were now satisfied with all the work at the Property. The Tenants were very concerned regarding the damp and the effect on Mrs Grant's health. Mr Grant informed the panel that Mrs Grant was suffering the after effects of a brain tumour and that he had been advised that Mrs Grant should not be exposed to damp or cold. Mr Grant advised that he was looking to be rehoused by the local authority given the poor living conditions he felt they suffered.
9. The Landlords had made no submissions other than their agents email of 20 November 2012 that all the works were completed.

#### **Summary of the issues**

10. The issues to be determined are:-
  - (1) Whether the gas central heating was in proper working order and compliant with the repairing standard.
  - (2) Whether the cooker at the Property was in proper working order and met the repairing standard.
  - (3) Whether there was damp in the Property.
  - (4) Whether there were roof slates missing from the roof and the Property was otherwise wind and watertight.

#### **Findings of fact**

11. The Committee finds the following facts to be established:-
  - The gas central heating system was in proper working order and compliant with the repairing standard.
  - The cooker at the Property was in proper working order and met the repairing standard.
  - There was extensive penetrating damp throughout a number of rooms in the Property. The Property did not meet the repairing standard in this regard.
  - That whilst roof works had been carried out and it was not possible from a ground floor visual inspection to identify specific defects, it was apparent there was water ingress to the Property, most probably from the gable walls, chimneys and roof. This water ingress was causing the damp within the Property.

## Reasons for the decision

12. The Committee based its decision primarily on the evidence obtained during their inspection of the Property. The Tenants confirmed that the gas central heating system had been attended to and a new radiator installed in one of the bedrooms. The Tenants had a copy of a gas safety certificate which confirmed everything was in order. Accordingly the Committee were satisfied that this aspect of the complaint had been dealt with satisfactorily by the Landlords.

The Tenants also confirmed that the broken cooker had been replaced and they were now satisfied with this. Again the Committee were satisfied that this aspect of the complaint had been dealt with satisfactorily by the Landlords.

The Committee then inspected the damp in the Property. The Committee first inspected the dining room at the Property. There were numerous damp patches evident within the dining room. Damp meter readings at all of these areas were very high..

The Committee then inspected the downstairs rear bedroom. Whilst not as bad as the dining room there was areas of damp caused by water ingress throughout that registered high damp meter readings.

The Committee then inspected the first floor westmost bedroom. Again there was excessive damp meter readings registered within the bedroom. The gable wall of the bedroom was sodden, to the extent that the wallpaper was coming away. It was evident that there was water ingress at some point to the Property from the exterior.

The Committee also inspected the bathroom. Again damp meter readings were very high along the gable wall, beyond anything which could be attributed to condensation.

The Committee then inspected the eastmost first floor bedroom. Again there were several areas of damp where meter readings were excessively high. These were predominantly along the gable wall.

The Committee then inspected the lounge and kitchen at the Property. There did not appear to be any material damp penetration into either of these rooms but these were the only rooms in the Property that were not damp.

The Committee carried out a ground level visual inspection of the roof and gable walls of the Property. It was apparent that the Landlords had carried out some works to the roof and, on the face of it, these appeared to have been carried out to a good standard. However it was apparent from the level of damp in the Property that these works had been unsuccessful in preventing water ingress to the Property. The Committee were unable to identify where the water ingress was taking place although, given the location of the damp within the Property, there seemed a high likelihood that water was penetrating around the gable wall/chimney heads area.

The Committee were of the view that the Landlords would require to carry out a full investigation to identify the areas of water ingress from the exterior of the Property. Once these areas were identified and repairs carried out, further steps would require to be taken to remove the damp from the Property. This may require extensive dehumidification or the replacement of several of the internal walls where the damp was particularly severe. It was for the Landlord to investigate and act accordingly to ensure the Property was brought back up to the repairing standard.

The Committee wished to highlight to the Landlords that it was a criminal offence under the terms of the Act to re-let the Property until such time as the Property had been brought up to the repairing standard.

The Committee considered how long the Landlords would require to carry out the works. In the circumstances the Committee were of the view that 4 months would be sufficient time.

The Committee noted that the Tenants were seeking to be rehoused as homeless by the local authority. Having inspected the Property and seen the levels of damp within it the Committee were of the view that the Property fell below the tolerable standard as defined in the Housing (Scotland Act) 1987 as it is not substantially free from rising or penetrating damp.. Only the kitchen and lounge were damp free. Given the evident health issues of Mrs Grant it was apparent that the Property was wholly unsuitable for their needs in its current condition.

#### **Decision**

13. The Committee accordingly determined that the Landlords had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.
14. The Committee proceeded to make a Repairing Standard Enforcement Order as required by section 24(1).
15. The decision of the Committee was unanimous.

#### **Right of Appeal**

16. **A Landlords or Tenants 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**

17. 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..... *21/1/13* .....

Chairperson