



**Repairing Standard Enforcement Order**  
**Ordered by the Private Rented Housing Committee**  
**Case reference number : PRHP/RP/13/0132**

Re:- Property at 28 McKenna Drive, Airdrie, ML6 0JE ("the property")

Land Register Title No: **LAN51692**

**The Parties:-**

Ms Jane Murray formerly residing at 28 McKenna Drive, Airdrie, ML6 0JE  
("the tenant")

**and**

Ms Katrina Bonett, residing at 37 Hyslop Street, Airdrie, ML6 0ES  
("the landlords")

**Notice to Ms Katrina Bonett**

Whereas in terms of the decision dated 30 April 2014 the Private Rented Housing 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 in particular the landlords had failed to ensure that:-

- (a) the installations in the house for the supply of space and water heating were in a reasonable state of repair and in proper working order

The Private Rented Housing Committee now requires the landlords to carry out such work as is necessary for the purpose of ensuring that the house concerned meets the repairing standard and that any damage caused by the carrying out of the works in terms of the order is made good.

In particular the Private Rented Housing Committee requires the landlords to carry out the following work

- To produce a certificate from a registered "Gas Safe" engineer confirming that the gas central heating system and all other gas appliances and installations within the property meet the relevant terms of the Gas Safety (Installation and Use) (Regulations) 1998 and to produce a report from a registered "Gas Safe" engineer confirming that the gas central heating system and boiler are in a reasonable state of repair and in proper working order.

The Private Rented Housing Committee orders that the works specified in this order must be carried out within 28 days of the date of this Order.

A landlord or tenant aggrieved by the decision of the Committee may appeal to the Sheriff by summary application within 28 days of being notified of that decision. The appropriate respondent in such appeal proceedings is the other party to the proceedings and not the PRHP or the Committee which made the decision.

Where such an appeal is made the effect of the decision or 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 are to be treated as having effect from the day on which the appeal is abandoned or so determined.

Signed..... **J Bauld**  
James Bauld, Chairperson

Date... 30 April 2014

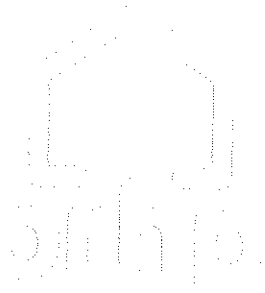
Signature of Witness..... **E Thomson**

Date... 30 April 2014

Name: EMMA THOMSON

Address: 7 West George Street, Glasgow, G2 1BA

Designation: TRAINEE SOLICITOR



## **Determination by Private Rented Housing Committee**

Statement of Decision of the Private Rented Housing Committee

(Hereinafter referred to as "the Committee")

Under Section 24(1) of the Housing (Scotland) Act 2006

Case Reference Number: PRHP/RP/13/0132

Re:- Property at 28 McKenna Drive, Airdrie, ML6 0JE ("**the property**")

Land register Title No: **LAN51692**

The Parties:-

Ms Jane Murray formerly residing at 28 McKenna Drive, Airdrie, ML6 0JE ("**the tenant**")

And

Ms Katrina Bonett, residing at 37 Hyslop Street, Airdrie, ML6 0ES ("**the landlord**")

**The Committee comprised:-**

Mr James Bauld	- Chairperson
Mr Kingsley Bruce	- Surveyor member
Ms Susan Brown	- Housing member

**Decision:-**

The Committee unanimously decided that the landlord had failed to comply with the duties imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 ("the 2006 Act"). The Committee accordingly proceeded to make a Repairing Standard Enforcement Order (RSEO) as required by Section 24(2) of the 2006 Act.

## Background:-

1. By application dated 129<sup>th</sup> October 2013, the tenant applied to the Private Rented Housing Panel (PRHP) for a determination that the landlord had failed to comply with the duties imposed by Section 14(1)(b) of the 2006 Act.
2. In the application made by the tenant she complained that the landlord had failed to comply with the duty to ensure that the house met the repairing standard and she listed a number of specific complaints relating to the condition of the front door, dampness within the property, warped flooring within the property, repairs required to window seals and coping falling off the external wall. After sundry correspondence between the applicant, her representative and the PRHP, the application was amended on 12<sup>th</sup> December 2013 to include complaints that radiators were leaking in the kitchen and living room and that the heating system within the property was not working properly.
3. By letter dated 30<sup>th</sup> December 2013, the President of the PRHP intimated a decision to refer the application under Section 22(1) of the 2006 Act to a Private rented Housing committee. After said referral was made, the PRHP received various written submissions from the landlord.
4. On 11<sup>th</sup> March 2014, the Committee served notice of referral on the landlord, the tenant and the tenant's representative indicating that an inspection and hearing would take place on 1<sup>st</sup> April 2014.
5. By email dated 20<sup>th</sup> March 2014, the tenant's representative indicated to the Committee that the tenant had now vacated the property.
6. An email had previously been received by the Committee dated 14<sup>th</sup> March 2014 from the landlord where she also indicated the tenant had vacated the property but indicated that the Committee would be allowed entry to the house on the date of inspection.
7. The Committee inspected the property on the morning of 1<sup>st</sup> April 2014. The landlord was not present during the inspection but access to the property was allowed by the landlord's parents. The tenant was not present at the inspection nor was any representative of the tenant present.
8. Following the inspection of the property, the Committee held a hearing at the offices of the PRHP in Glasgow. The landlord was neither present nor represented at the hearing. The tenant was neither present nor represented at the hearing.
9. At the hearing, the Committee determined that they would continue with consideration of the application notwithstanding that the property had been vacated by the tenant. The Committee exercised the powers open to them in terms of the Housing (Scotland) Act 2006, Schedule 3, paragraph 7(3)(b). That provision indicates that if a tenancy is lawfully terminated the application by the tenant is to be treated as having been withdrawn but allows the Committee power to continue to consider an application and to determine same despite the withdrawal of the application.

## Summary of Issues

10. At the hearing the Committee noted that the matters which were to be determined from the tenant's application related to:-
  - The front door was not wind and watertight
  - Dampness in bathroom
  - Dampness in bedroom
  - Warped flooring in one room
  - Coping falling off wall
  - Window seal compromised

- Leaking kitchen and living room radiators
- Heating system not working properly

### Findings of fact

11. Having considered all the evidence the Committee found the following facts to be established.
12. The property is a two storey semi-detached house constructed of brick and rendered externally with roughcast. It had a pitched tiled roof. Internally, the property consisted of a hall, two public rooms and a kitchen on the ground floor with a bathroom and three bedrooms on the upper floor. The windows throughout the property were UPVC framed double glazed units. There was a UPVC door leading from the kitchen to the rear garden. The property had a full gas central heating system. The property had garden ground to the front and rear. The property was located in a residential area close to local shops and reasonably placed for usual facilities such as transport and education. During the inspection, the Committee examined the front door. The Committee noted that the front door was generally wind and watertight although the door itself was rubbing against the door frame at certain points and was slightly difficult to open and close.
13. During the course of the inspection, the Committee noted evidence of mould on certain walls in the public room on the ground floor and in one of the bedrooms on the upper floor. The Committee took the view that this mould was not evidence of either rising dampness or penetrating dampness.
14. During the course of the inspection, the Committee noted that the laminate flooring which had been laid in the public room on the ground floor was showing slight signs of being warped. The Committee took the view that this was not a significant matter and concluded that it had not been caused by any significant traumatic flooding. The Committee believed that the flooring had become slightly raised owing to water penetration when it had been cleaned.
15. During the course of the inspection, the committee noted that two coping stones were no longer present on the front garden wall of the property. The Committee took the view that this was not a breach of the repairing standard.
16. During the course of the inspection, the Committee checked the windows of the property. They could find no evidence that any window seal within the property was significantly compromised.
17. During the course of the inspection, the Committee checked the kitchen and living room radiators. They could find no evidence that the radiators were currently leaking.
18. During the course of the inspection, the Committee were not able to ascertain whether the heating system was working. Although the boiler appeared to be connected there was insufficient pressure within the boiler to enable the system to work to allow the Committee to check the heating system. The Committee also noted that the various correspondence which had been sent by the landlord to the Committee included reports from a British Gas engineer dated 22<sup>nd</sup> January 2014 in which the engineer had indicated that the heating system was no longer meeting the current standards. The Committee noted that no valid Gas Safety Certificate in terms of the relevant regulations had been produced to the Committee.

## **The hearing**

19. No parties were present at the hearing and accordingly the committee simply proceeded to discuss what they had observed at the inspection.
20. The Committee concluded that with regard to all matters with the exception of the complaint regarding the heating system, that the repairing standard was not breached.
21. However, with regard to the condition of the heating system, the Committee took the view that on the date of inspection the heating system was not working properly. The Committee concluded that this was a breach of the repairing standard and in particular a breach of the standard as set out in Section 13(1)(c). The Committee were concerned that the landlord had not produced a valid certificate showing that the central heating system and the relevant gas appliances and installations had been properly checked in accordance with the Gas Safety (Installation and Use) (Regulations) 1998. In her emails to the Committee, the landlord indicated no knowledge of these regulations and no awareness of the requirement that such a certificate should be obtained on an annual basis.

## **Reasons for Decision**

22. The Committee considered the various issues which had been raised in the application and the various matters which had been discussed at the hearing. The committee took the view that the only matter which was still of concern was the inability to check that the heating system was working properly and the failure on the landlord's part to produce a valid Gas Safety certificate. Accordingly the Committee determined that they would make a RSEO which would require the landlord to produce evidence that the gas central heating system and boiler were in full and proper working order and to produce a valid and up to date Gas Safety Certificate in terms of the Gas Safety (Installation and Use) (Regulations) 1998. The Committee determined that this work should be carried out as quickly as possible and that the relevant certificate should be produced within 28 days of the issue of the RSEO.
23. The Committee accordingly determined to make a RSEO as required in terms of Section 24(2) of the Act.
24. The Decision of the Committee was unanimous.

## **Rights of Appeal**

25. A landlord or tenant aggrieved by the decision of the Committee may appeal to the Sheriff by summary application within 21 days of being notified of that decision.
26. The appropriate respondent in such appeal proceedings is the other Party to the proceedings and not the PRHP of the Committee which made the decision.

## **Effects of Section 63**

27. Where such an appeal is made, the effect of the decision and of any Order made in consequence of it is suspended until the appeal is abandoned or finally determined.

28. Where the appeal is abandoned or finally determined by confirming the decision, the decision and the Order made in consequence of it are to be treated as having effect from the day on which the appeal is abandoned or so determined.

Signed..... **J Bauld** .....

James Bauld, Chairperson

Date..... **30 April 2014** .....

Signature of Witness..... **E Thomson** .....

Date..... **30 APRIL 2014** .....

Name: **EMMA THOMSON**

Address: **7 West George Street, Glasgow, G2 1BA**

Designation: **TRAINEE SOLICITOR**