

Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

Case reference number : PRHP/ML7/73/13

Re:- Property at 8 Burns Crescent, Greenrigg, Harthill, ML7 5QY ("the property")

The Parties:-

**Ms Cheryl Redmond, formerly residing at 8 Burns Crescent, Greenrigg, Harthill, ML7 5QY
("the tenant")**

and

**Mr Caesar Manlapaz and Mrs Cynthia Manlapaz, spouses, residing at 7 Burns Crescent,
Greenrigg, Harthill, ML7 5QY
("the landlords")**

Notice to Mr Caesar Manlapaz and Mrs Cynthia Manlapaz

Whereas in terms of the decision dated 20th August 2013 the Private Rented Housing Committee determined that the landlords 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 heating are in a reasonable state of repair and in proper working order.
- b) That fixtures, fittings and appliances provided by the landlord under the Tenancy are 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

- Remove the gas fire in the living room and carry out such further works as are necessary to reinstate the wall and fire place behind the gas fire

The Private Rented Housing Committee orders that the works specified in this order must be carried out within twenty eight 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 21 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**

Date..... *20 August 2013*

James Bauld, Chairperson

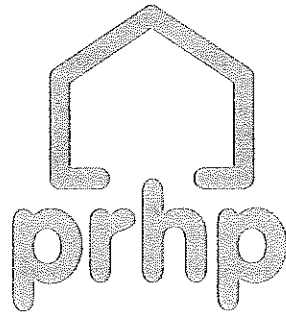
Signature of Witness..... **G Williams**

Date..... *20/8/13*

Name: *GILLIAN WILLIAMS*

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

Designation: *SENIOR COURT ADMINISTRATOR*



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/ML7/73/13

Re:- Property at 8 Burns Crescent, Greenrigg, Harthill, ML7 5QY ("**the property**")

Land Register Title No: WLN12555

The Parties:-

Ms Cheryl Redmond, formerly residing at 8 Burns Crescent, Greenrigg, Harthill, ML7 5QY ("**the tenant**")

And

Mr Caesar Manlapaz and Mrs Cynthia Manlapaz, spouses, residing at 7 Burns Crescent, Greenrigg, Harthill, ML7 5QY ("**the landlords**")

The Committee comprised:-

Mr James Bauld	- Chairperson
Ms Carol Jones	- Surveyor member
Mr Scott Campbell	- Housing member

Decision

The Committee unanimously decided that the landlords 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 10th April 2013, the tenant applied to the Private Rented Housing Panel ("PRHP") for a determination that the landlords 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 she considered that the landlords had failed to comply with their duty to ensure that the house met the repairing standard and in particular that the house was wind and water tight and in all other respects reasonably fit for human habitation and that in particular the property required repairs to the boiler, external step, windows and patio doors, electrical work and to remedy dampness. The tenant also complained that the heating system was not adequate and that there was a leak from the shower
3. The tenant subsequently provided further written information to the PRHP.
4. By letter dated 30th April 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.
5. After said referral was made, the PRHP were advised that the tenant had left the property and had terminated her tenancy. A Direction was issued on 19th June 2013 indicating that the Committee would proceed with their consideration of the application. Notification of that direction was sent on 20th June 2013 to the landlords. On 11th July 2013, the Committee served notice of referral on the landlords indicating that an inspection and hearing would take place on 5th August 2013.
6. The Committee inspected the property on the morning of 5th August 2013. The tenant was not present during the inspection. The landlords were both present during the inspection.
7. Following the inspection of the property the Committee held a hearing at the offices of the PRHP in Glasgow. The landlords were present at the hearing. The tenant was neither present nor represented.

Summary of Issues:

8. At the hearing, the Committee agreed with the landlords that the matters which were still outstanding from the tenant's application related to the gas fire within the living room, allegations of dampness and complaints that the heating was not functioning

Findings of Fact

9. Having considered all the evidence the Committee found the following facts to be established:-
 - (a) The property is a two storey mid terrace house built in the 1950's and constructed of brick/roughcast with a pitched slated roof. Internally the property comprised of a hall, living room and kitchen on the ground floor with a bathroom and two bedrooms on the upper floor. The windows throughout the property were UPVC framed double glazed units. There were UPVC patio doors leading from the kitchen to the rear garden. The property has a full gas central heating system with a back boiler. The property has a driveway to the front which has been paved and has garden ground to the rear of the property. The property is located in a residential area and is close to local shops. It is reasonably placed for the usual facilities such as transport and shopping.
 - (b) During the inspection, protimeter readings were taken in various rooms. These readings showed evidence of dampness, particularly near to the floor on the internal wall between the living room and the kitchen and at the base of the front external

wall. Similarly high readings were also seen in certain areas of the bedrooms. However there was no evidence of damage to the interior surfaces of the walls or mould growth, the decor was found to be in a good condition and the Committee did not consider that a tenant's enjoyment of the property would be affected. The Committee were satisfied that all other items in the application, namely the windows, patio doors, back steps, shower and bath seal and heating system were found to be in a reasonable state of repair and in proper working order at the time of the inspection. The Committee were provided with a PIR and Gas Safety Certificate and noted that the gas fire within the living room of the property had been condemned during the recent gas safety check. The engineer had indicated that the gas fire should not be used and appropriate labelling had been attached. The gas safety check also indicated that one of the burners on the gas hob in the kitchen was not working.

The Hearing

10. At the hearing the various issues of repair were discussed by the Committee and questions were asked of the landlords. With regard to the gas fire the landlords indicated that they were aware that it could not be repaired and that it could not be made to work. They did indicate that they intended to re-let the property although they were not yet advertising for a tenant. They indicated that the gas fire could be removed. Although there was a back boiler behind the fire, the boiler would work without the gas fire being in place. There were three radiators within the living room and accordingly the gas fire was not required to heat the living room.
11. With regard to the dampness readings which were showing, the landlords indicated they had bought this property eight or nine years ago and had lived in it themselves for over four years. They had never had a problem with dampness and the tenant had never mentioned dampness while she was in the house.
12. With regard to the tenant's complaint that the heating was not working, the landlords took the view that this was caused by the tenant not having money in the pre-paid gas meter. Any time they sent a gas engineer to the house the heating was functioning. The gas safety check had been completed and showed that the central heating was working.

Reasons for Decision

13. The Committee considered the various issues which had been raised 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 existence of the gas fire within the living room and the possibility that an incoming tenant might attempt to use it after it had been condemned. At the conclusion of the hearing, the Committee asked the landlords to allow them time to have certain discussions. After those discussions the Committee invited the landlords back into the hearing room. The Committee indicated to the landlords that the Committee intended to issue an RSEO which would require the gas fire within the living room to be removed and either replaced with a working gas fire or for the wall and décor behind the gas fire to be reinstated. The landlords indicated that they understood the Committee's proposal and confirmed that they intended to remove the gas fire and to reinstate the wall in the living room. They indicated that they would have this work carried out as quickly as possible. The Committee determined that the other matters which were in the tenant's complaint had all either been rectified or had been found not to be established.
14. The committee accordingly determined to make an RSEO as required in terms of Section 24(2) of the Act.

15. The decision of the Committee was unanimous.

Rights of Appeal

16. 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.
17. 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

18. 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.
19. 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.

J Bauld

Signed.....

Date *20 August 2013*

James Bauld, Chairperson

G Williams

Signature of Witness.....

Date *20 / 8 / 13*

Name: *GILLIAN WILLIAMS*

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

Designation: *SENIOR COURT ADMINISTRATOR.*