



Rent Relief Order
Ordered by the Private Rented Housing Committee

References: PRHP/RP/15/0317 & PRHP/RP/16/0109

Re property at: Flat 4/2, 83 Candleriggs, Glasgow, G1 1LF, being the subjects registered in the Land Register of Scotland under Title Number GLA56406 ("the Property")

The Parties:-

Ms Eneida Garcia Villanueva, residing at Flat 4/2, 83 Candleriggs, Glasgow, G1 1LF ("the Tenant")

And

Mr Iain Thomson per his Agents R & G Estate Agents Limited, having their place of business at 57 Townhead, Kirkintilloch, Glasgow, G66 1NN ("the Landlord")

R & G Estate Agents Limited, having their place of business at 57 Townhead, Kirkintilloch, Glasgow, G66 1NN ("The Landlord's Agents")

NOTICE TO

Mr Iain Thomson per his Agents R & G Estate Agents Limited, having their place of business at 57 Townhead, Kirkintilloch, Glasgow, G66 1NN
("the Landlord")

Whereas in terms of their decision dated 24 November 2016, the Private Rented Housing Committee ("the Committee") determined in terms of Section 26(1) of the Housing (Scotland) Act 2006 ("the Act") that the Landlord has failed to comply with the Repairing Standard Enforcement Order ("RSEO") in relation to the Property made by the Committee.

The Committee determined to make a Rent Relief Order ("RRO") in terms of Section 27 of the said Act reducing the rent payable under the tenancy for the Property by an amount of 75.% 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 RRO may be appealed under section 64 of the said Act.

A Landlord or a 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.

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 RRO 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 page only are executed by Andrew Stuart Cowan, Solicitor, 7 West George Street, Glasgow G2 1BA, Chairperson of the Private Rented Housing Committee at Glasgow on 24 November 2016 before this witness:-

A Cowan

Signed
Andrew Cowan, Chairperson

L McManus

.....Witness
Laura McManus, Secretary, 7 West George Street, Glasgow, G2 1BA



**Determination by Private Rented Housing Committee
Statement of decision of the Private Rented Housing Committee under Section 26 (1) of the
Housing (Scotland) Act 2006**

References: PRHP/RP/15/0317 & PRHP/RP/16/0109

Re property at: Flat 4/2, 83 Candleriggs, Glasgow, G1 1LF, being the subjects registered in the Land Register of Scotland under Title Number GLA56406 ("the Property")

The Parties:-

Ms Eneida Garcia Villanueva, residing at Flat 4/2, 83 Candleriggs, Glasgow, G1 1LF ("the Tenant")

And

Mr Iain Thomson per his Agents R & G Estate Agents Limited, having their place of business at 57 Townhead, Kirkintilloch, Glasgow, G66 1NN, ("the Landlord")

R & G Estate Agents Limited, having their place of business at 57 Townhead, Kirkintilloch, Glasgow, G66 1NN ("The Landlord's Agents")

Decision

The Private Rented Housing Committee ("the Committee") has now determined that the Landlord has failed to comply with the Repairing Standard Enforcement Order ("RSEO") dated 24 June 2016, and further has determined that notice of that failure should be served on the Local Authority in which the property is situated in accordance with Section 26(2)(a) of the Housing (Scotland) Act 2006 ("the Act"). The Committee further determined to make a Rent Relief Order ("RRO") in terms of Section 26(2)(b) of the Act, which order shall take effect 28 days after the last date on which the decision to make the RRO may be appealed under Section 64 of the Act.

The Committee consisted of:-

Mr Andrew Cowan – Chairperson

Ms Carol Jones – Surveyor Member

Background

1. On 24 June 2016, the Committee issued a determination which stated that the Landlord had failed to comply with the duties imposed by Section 14 (1)(b) of the Act. On the same date the Committee issued a RSEO in respect of the property.

The RSEO made by the Committee required the Landlord to:-

- (a) instruct a certified Electrical Installation Condition Report ("EICR"), on the electrical installations of the Property, which check should be conducted by a suitably qualified and registered SELECT or NICEIC electrical contractor. Thereafter the Landlord is to carry out such works as may be recommended in terms of the EICR to ensure that the entire electrical installations within the Property are safe, functional and in proper working order. The Landlords are required to exhibit a copy of a final Electrical Condition Check Certificate when any necessary works are completed;
- (b) carry out such works as are necessary to provide blinds in the dining room, living room and on the mezzanine floor of the Property;
- (c) instruct a report from a damp specialist on the control and prevention of condensation in the Property and carry out such works as are recommended in this report to ensure that the Property is fit for human habitation so that it does not suffer from excessive condensation;
- (d) carry out such works as are necessary to ensure that the iron gate is repaired so that it is in a reasonable state of repair and in proper working order; and
- (e) carry out such works as are necessary to the common door to ensure that it is in a reasonable state of repair and in proper working order.

The Committee ordered that the works specified in the RSEO were to be carried out and completed within the period of 6 weeks from the date of service of the RSEO upon the parties.

2. On 8 September 2016, the Surveyor Member of the Committee re-inspected the Property. At that time, the Surveyor Member noted that no works had been carried out to comply with the terms of the RSEO, with the exception of works necessary to comply with paragraph 'd' of the RSEO (as the iron gate at the front of the Property had been replaced and was now in proper working order).

3. A copy of the Report prepared by the Committee Surveyor Member following the re-inspection on 8 September 2016, was circulated to all parties. The Landlord and the Landlord's agent have made no comment and made no further submissions following service upon them of that report. The Tenant acknowledged receipt of the re-inspection report. She confirmed to the Committee that she considered that a RRO should be issued as a consequence of the Landlord's failure to comply with the terms of the RSEO.
4. By letter dated 11 October 2016, the Committee intimated to parties that they intended to hold a further hearing in relation to the application on 18 November 2016. Parties were advised that, if the Committee consider that the works, have not been satisfactorily completed, they would consider further action (including whether the Committee would wish to make a RRO).
5. The Committee proceeded with the further hearing on 18 November 2016.
6. The hearing was attended by the Tenant and Dr Andrew Wilson (who is the co-Tenant of the Property). The Landlord did not attend the hearing. The Landlord's agents did not attend the hearing.

At the hearing, the Tenant submitted to the Committee that the Landlord had failed to comply with the RSEO issued by the Committee and dated 24 June 2016.

7. The Tenants advised the Committee that the Landlord had exhibited to them an Electrical Installation Condition Report dated 20 February 2016. That report had been issued to the Tenants by the Landlord's agents under cover of the Landlord's agent's email of 9 September 2016. The Tenant highlighted the Electrical Installation Condition Report was dated some 4 months prior to the RSEO issued by the Committee and that she could not read this digital version.

8. The Tenant further advised that tradesmen had, on the instructions of the Landlord, replaced the blinds in the living room and on the mezzanine floor of the Property. The Landlord's tradesmen had also attempted to repair the blinds in the dining room of the Property, but those blinds were still not working correctly.
9. The Committee considered the further evidence which had been made available by the Tenant at the hearing. The Committee noted the terms of their original RSEO and, in particular, noted that, (with the exception of paragraph 'd' of the RSEO—works in relation to the iron gate at the Property), on the evidence available, the Landlord had failed to comply with the full extent of paragraphs a, b, c and e of the RSEO. In the circumstances, therefore, the Committee were satisfied that there was a sufficiency of evidence to determine that the Landlord has failed to comply with the terms of the RSEO dated 24 June 2016.
10. **The Committee accordingly determined that the Landlord had failed to comply with the duty imposed by Section 26(1) of the Act in relation to the requirements of the RSEO and further determined that notice of that failure should be served on the Local Authority in which the property is situated.**
11. In terms of Section 27(2) of the Act, the Committee may make a RRO where they have decided that a Landlord has failed to comply with a RSEO which has effect in relation to the Property concerned.
12. The Committee considered the written submissions of the Tenant which they had lodged, together with the verbal submissions made by the Tenant at the hearing on 18 November 2016. In considering whether a RRO should be issued and whether the rent payable under the tenancy should be reduced, the Committee took account of the following facts:-

- (a) the Landlord has failed to comply with the terms of the RSEO which was issued in June 2016 some of which are health and safety issues. The Landlord has only sought to fix the blinds within the Property since the RSEO was issued. The Landlord has made no substantive attempts to instruct the works necessary to ensure that the Property is brought to the repairing standard, all as required by the terms of the RSEO;
- (b) The Tenant has made all reasonable efforts to communicate with the Landlord and to request necessary works are carried out to ensure the Property meets the repairing standard. The Tenant has previously attempted to engage with the Landlord through mediation and has sent a number of emails to the Landlord requesting that the necessary works are completed. The Landlord has failed to respond to the Tenant's reasonable requests to carry out works necessary to bring the Property to the repairing standard.
- (c) As a consequence of the Property failing to meet the repairing standard, the Tenants have found that the Property is excessively cold and suffers from excessive condensation in cold weather. The Tenants are not able to fully enjoy the Property, particularly in cold weather, as they are only able to heat certain parts of the Property. The cost of heating the Property is excessive, as a direct consequence of the Landlord's failure to maintain the Property to the repairing standard. They have also been unable to rely on the electrical installation and have ongoing issues with lighting all the rooms and the Tenant said she was "scared for her safety and security" in relation to the the fact that the common door does not close properly.
- (d) The Tenant has incurred direct loss of earnings as a consequence of taking time off work to attend at the Property to ensure that access is available for the Landlord.
- (e) Despite considerable time and opportunities given to the Landlord to carry out the necessary works required in terms of the RSEO, the Landlord has failed to complete the

works. The Property continues to fail to meet the repairing standard. The Landlord has shown a cavalier disregard for the terms of the RSEO and for the Tenant's own complaints to the Landlord in relation to the condition of the Property.

13. Given the Landlord's failure to comply with the RSEO, the Committee have determined that an appropriate reduction in rent would be to reduce the rent payable under the tenancy by 75%. The Committee proceeded to make a RRO in terms of Section 27 of the Act which order shall take effect from 28 days after the last date on which the decision to make the RRO may be appealed under Section 64 of the said Act.

Right of Appeal

14. 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

15. 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.

A Cowan

Signed
Andrew Cowan, Chairperson

Date 24 November 2016

L McManus

.....Witness
Laura McManus, Secretary, 7 West George Street, Glasgow, G2 1BA