



## Repairing Standard Enforcement Order

### Ordered by the Private Rented Housing Committee

Reference number:- PRHP/RP/15/0280

Title No: REN86778

Re: Property at the Eastmost house on the Ground and First Floor at 21 Tay Place, Johnstone, PA5 0PB, being the subjects registered in the Land Register of Scotland under Title Number: REN86778 ("the Property")

The Parties:-

Ms Sarah Quinn, residing at 21 Tay Place, Johnstone, PA5 0PB ("the Tenant")

Mr Sujit Legha, residing at 16 Snead View, Motherwell, ML1 5GL ("the Landlord")

#### **NOTICE TO Mr Sujit Legha, residing at 16 Snead View, Motherwell, ML1 5GL ("the Landlord")**

Whereas in terms of their decision dated 19 February 2016, the Private Rented Housing Committee ("the Committee") determined that the landlord has failed to comply with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 ("The Act") and in particular that the landlord has failed to ensure that:-

- (a) The property is wind and water tight and in all other respects reasonably fit for human habitation (all as required by Section 13(1)(a) of the Act);
- (b) The structure and exterior of the property (including the drains, gutters and external pipes) are in a reasonable state of repair and in proper working order (all as required by Section 13 (1) (b) of the Act);

- (c) The installations in the property for the supply of electricity are in a reasonable state of repair and in proper working order (all as required by Section 13(1)(c) of the Act); and
- (d) Any fixtures, fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order (all as required by Section 13(1)(d) of the Act).

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 to:-

- (a) Carry out such works as are necessary to ensure that there are acceptable provisions for detecting fires and for giving warning in the event of fire or suspected fire all as are required by Scottish Government guidance on satisfactory provision for protection or for warning of fires, and current building regulations;
- (b) Carry out such works as are necessary to ensure that all windows within the property are wind and watertight and further to carry out such works as are necessary to repair and/or renew the windows within the property to ensure that they are capable of being properly operated and locked, so that they are in a reasonable state of repair and in proper working order;
- (c) Carry out such repairs as are necessary to the handle to the rear door of the property so that it is in a reasonable state of repair and in proper working order;
- (d) Carry out such works as are necessary to repair the source of water penetration into the kitchen ceiling of the property so that it is in a reasonable state of repair and in proper working order;

- (e) Carry out such works as are necessary to the square metal light fitting within the kitchen of the property so that it is safe and secure, fully operational and it is in a reasonable state of repair and in proper working order;
- (f) Carry out such works as are necessary to repair and/or renew the kitchen cupboard doors within the property so that they are in a reasonable state of repair and in proper working order;
- (g) Carry out such works, by a suitably qualified electrician, as are necessary to the electrical supply to the cooker within the property so that it is in a reasonable state of repair and in proper working order;
- (h) Carry out such works as are necessary to remove the rubbish and other material which is located in the rear garden of the property and in the side path of the property so that the property is reasonably fit for human habitation;
- (i) Replace the bath panel with one which is fit for purpose.

The Private Rented Housing Committee order that the works specified in this Order must be carried out and completed within the period of 6 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.

Please note that in terms of section 28(1) of the Act, a landlord who, without reasonable excuse, fails to comply with a RSEO commits an offence liable on summary conviction to a fine not exceeding level 3 on the standard scale. A landlord (and that includes any landlord's successor in title) also commits an offence if he or she enters into a tenancy or occupancy arrangement in relation to a house at any time during which a RSEO has effect in relation to the house. This is in terms of Section 28(5) of the Act.

In witness whereof these presents type written on this page and the preceding three pages are executed by Andrew Cowan, chairperson of the Private Rented Housing Committee at Glasgow on 19 February 2016 before this witness:-

**A Cowan**

Signe  
Andrew Cowan, Chairperson



.....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 24 (1) of the Housing (Scotland) Act 2006**

Reference number:- PRHP/RP/15/0280

Title No: REN86778

Re: Property at the Eastmost house on the Ground and First Floor at 21 Tay Place, Johnstone, PA5 0PB, being the subjects registered in the Land Register of Scotland under Title Number: REN86778 ("the Property")

The Parties:-

Ms Sarah Quinn, residing at 21 Tay Place, Johnstone, PA5 0PB ("the Tenant")

Mr Sujit Legha, residing at 16 Snead View, Motherwell, ML1 5GL ("the Landlord")

#### **Decision**

The Private Rented Housing Committee ("the Committee"), having made such enquiries as it saw fit for the purpose of determining whether the Landlord has complied with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 ("the Act") in relation to the property concerned and, taking account of the written evidence lodged by both the Landlord and the Tenant, determined that the Landlord has failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

The Committee consisted of

Mr Andrew Cowan – Chairperson

Ms Carol Jones – Surveyor Member

#### **Background**

1. By application dated 21 October 2015, the Tenant applied to the Private Rented Housing Panel for a determination as to whether the Landlord had failed to comply with the duties imposed by Section 14 (1)(b) of the Act.
2. The application by the Tenant stated that the Tenant considered that the Landlord had failed to comply with his duty to ensure that the property meets the repairing standard.

3. The Tenant annexed to her application a copy of a letter dated 9 October 2015 and issued on her behalf by the Renfrewshire Citizen's Advice Bureau. The letter of 9 October 2015 was addressed to the Landlord, and in it the Tenant's representative at the Citizen's Advice Bureau had listed a summary of issues which the Tenant believed the Landlord require to carry out in order to bring the property up to the repairing standard.
  
4. A summary of the alleged breaches of the repairing standard are:-
  - (a) There are no smoke alarms/fire detection equipment in the property;
  - (b) There are problems with the windows in the property, specifically none of the windows in the property are capable of being locked. The bathroom window is not capable of being opened resulting in a lack of ventilation and mould growth. The front bedroom window is not secure. The Tenant considers that work is required to repair all windows throughout the property;
  - (c) The handle for the door leading to the rear garden of the property does not work;
  - (d) Within the kitchen of the property there is water damage to the kitchen ceiling;
  - (e) Within the kitchen of the property one of the light fittings is not secure;
  - (f) Within the kitchen of the property one of the kitchen cupboard doors is not correctly fixed;
  - (g) Within the kitchen of the property wiring for the cooker is not secure;
  - (h) Within the back bedroom of the property there is water damage to the ceiling;
  - (i) Within the garden of the property there is significant rubbish; and
  - (j) Within the garden of the property part of the hedge around the rear garden of the property has been removed causing the garden to be insecure.
  - (k) The bath panel is ill fitting and does not function properly
  
5. The Committee served notice of referral dated 6<sup>th</sup> November 2015 under Section 22(1) of the Act on both the Landlord and the Tenant.

6. In terms of the notice of referral both the Landlord and the Tenant were advised that the Committee intended to inspect the property on 10 December 2015 and to thereafter hold a hearing in relation to the application on the same date.
7. By letter dated 9 November 2015, the Landlord lodged written representations in response to the Tenant's application. As part of his representations the Landlord indicated that he was unable to attend the inspection and hearing which had been fixed for 10 December 2015.
8. By email of 7 December 2015, the Tenant advised the Committee that she had been ill and that she was seeking to postpone the hearing/inspection until 2016.
9. By letter dated 10 December 2015 the Committee advised both the Landlord and the Tenant that the inspection and hearing in relation to the application had been postponed. Both the Landlord and the Tenant were advised that a further inspection and hearing in relation to the application was schedule for 11 February 2016.
10. The Committee proceeded with the inspection on 11 February 2016. The Committee attended at the property where they met with the Tenant and carried out an inspection of the property. The Landlord did not attend the inspection of the property.

### **The Inspection**

11. Photographs were taken during the inspection by the Committee. Copies of the photographs taken by the Committee are attached as a schedule to this report.
12. The property comprises a ground and first floor maisonette located in a 4 storey block of flats and located in an area of similar social housing around 1.7 miles south-west of Johnstone town centre in Renfrewshire. The accommodation comprises a hall, living room and kitchen on the ground floor and 3 bedrooms and a bathroom on the first floor. The property has a gas

central heating system, uPVC windows and the block in which it is situated has recently been refurbished externally with new insulated cladding. It has a small rear and side garden;

13. At the inspection the Committee noted the following points:-

- (a) There are currently no operable smoke alarms or fire detection equipment within the property. The Tenant explained at the time she moved into the property there was a battery operated smoke detector on the top floor landing of the property. The battery of that smoke detector had ceased to operate and the Tenant was not able to replace the battery, as it was sealed unit. Since that time there has been no smoke alarms or fire detection equipment within the property;
- (b) The Committee noted that the handles used as the opening mechanism on every window within the property were loose and not in proper working order. More specifically the Tenant had not been supplied with keys for any of the locks located within the opening mechanisms for the windows, and accordingly the windows were not capable of being locked. The handle to the opening mechanism in the rear bathroom window is missing and the window cannot be operated. This means it is not possible to ventilate the bathroom but no significant build up of mould was observed by the committee. Within the front bedroom of the property there is a large gap between the left hand opening section of the window and the window frame. In the kitchen of the property the window closing mechanism does not operate so that it can be closed in a secure manner. In general all the windows throughout the property are in need of maintenance and/or renewal to ensure that they are in a reasonable state of repair and in proper working order.
- (c) The handle for the full length glass doors which lead from the rear of the property into the rear garden is inoperable. The handle is not fixed correctly to the door and is not in a reasonable state of repair or in proper working order;
- (d) Within the kitchen of the property there is evidence of water damage to the kitchen ceiling. The site of the water damage to the kitchen ceiling is directly below the bath situated in the bathroom of the property. The Committee noted evidence of recent water ingress at this particular site on the kitchen ceiling;



- (e) One of the light fittings within the kitchen does not operate. It is a heavy square iron fitting and is not properly secured to the ceiling. The light fitting is insecure as it rests on four screws which are attached to the kitchen ceiling. The light fitting is not in a safe condition or in a reasonable state of repair;
- (f) Several of the kitchen cupboard doors to base units are not secure and the hinge fittings for these doors have not been properly secured to the base units. The cupboards are not in a reasonable state of repair or in proper working order;
- (g) The power supply for the cooker within the kitchen of the property is supplied through a three pin plug which is attached to a block of wood and hanging loose at the back of the cupboard below the cooker. This installation for the supply of electricity to the cooker is not in a safe condition and is not in a reasonable state of repair;
- (h) There is evidence of previous water ingress within the rear bedroom of the property. This water ingress appears to be historic and related to a leak from the subjects above the property. Whilst there is evidence of some damage to decoration, there is no evidence of a failure to meet the repairing standard in this respect.
- (i) The Committee noted that there was considerable rubbish and other material located within the garden of the property and on the pathway which leads around the side of the property.
- (j) The Committee noted that a section of the hedge to the rear of the garden had been removed.
- (h) The bath panel is made of unpainted plywood which is showing signs of deterioration with a section split and peeling along the top section adjacent to the rim of the bath.

### **The Hearing**

14. The Committee had advised both the Landlord and the Tenant that they intended to hold a hearing in relation to the Tenant's application following upon their inspection of the property at Wellington House, Welling Street, Glasgow. Neither the Tenant nor the Landlord attended the hearing which had been fixed in relation to the application.

15. In written representations lodged by the Landlord (dated 9 November 2015), the Landlord has indicated that he is willing to complete all necessary works. The Landlord has highlighted in his written representations that he has been unable to arrange access with the Tenant to have necessary repairs completed. The Landlord has not, however, given any evidence of the attempts that he has made to gain access to the property. In an email dated 7 December 2015, the Tenant has specifically denied the Landlord's claims that she has been "unreachable". The issue for the Committee to determine is whether or not the property meets the repairing standard. The exceptions to the Landlord's repairing duty as specified in Section 16 of the Act are specific and no evidence has been placed before the Committee which would support any claim from the Landlord that the duty to meet the repairing standard imposed by Section 14(1) of the Act does not apply in this case.
16. The Committee accordingly reached a decision based upon their own observations from the inspection of the property and taking account of written information supplied by both the Tenant and the Landlord in terms of:-
- (a) The Tenant's application (together with supporting documentation); and
  - (b) The Landlord's written representations dated 9 November 2015.

### **Decision**

17. The Committee accordingly determined that the Landlord had failed to comply with the duty imposed by Section 14 (1) (b) of the Act.
- (a) From their inspection of the property the Committee had noted that there were no operable smoke alarms or fire detection equipment within the property. The Committee accordingly determined the property does not meet the repairing standard and the property does not have satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire as required by Section 13(1)(f) of the Act;
  - (b) The Committee, upon the evidence available from their own inspection of the property, determined that all of the windows within the property are in need of repair and/or renewal to ensure that they are (i) both wind and watertight and (ii) that they are in a reasonable

state of repair and in proper working order all as required by Section 13(1)(a) & 13(1)(b) of the Act;

- (c) From their own inspection of the property the Committee determined that the handle for the door leading to the rear garden of the property is not in a reasonable state of repair and in proper working order and accordingly, as a fixture supplied by the Landlord under the tenancy, does not meet the repairing standard as required by Section 13(1)(d) of the Act;
- (d) The Committee determined that there is an issue with water ingress from the bathroom of the property into the kitchen at the point situated directly below the bath in the property. In the circumstances the Committee were satisfied that, accordingly, the property does not meet the repairing standard and the structure and exterior of the house is not in a reasonable state of repair and in proper working order all as required by Section 13(1)(b) of the Act;
- (e) From their own inspection of the property, the Committee determined that the square metal light fitting fitted within the kitchen of the property is not safe and not secure. As a fixture supplied by the landlord under the tenancy it is not in a reasonable state of repair and not in proper working order all as required by Section 13(1)(d) of the Act;
- (f) From their own observations at the time of the inspection the Committee determined that several of the kitchen cupboards (being fixtures supplied by the landlord under the tenancy) are not in a reasonable state of repair and in not in proper working order all as required by Section 13(1)(d) of the Act;
- (g) From their observations at the time of the inspection the Committee determined that the power supply for the cooker at the property is potentially unsafe and is not in a reasonable state of repair and not in proper working order all as required by Section 13(1)(c) of the Act;
- (h) Whilst the Committee observed evidence of dampness/water penetration in the upper back bedroom of the property, the Committee were not satisfied that there was evidence of an on-going failure to meet the repairing standard in respect of this matter;
- (i) In terms of Section 194 of the Act, the premises to which the repairing standard applies include inter alia any garden which is capable of being used, occupied or enjoyed,

together with the building or any part of it. The garden ground accordingly requires to meet the repairing standard. At the inspection the Committee observed that the side path leading around the side of the property was covered in rubbish and other debris. This rubbish constituted a safety hazard for those using the pathway and for those using the rear garden of the property. In the circumstances, and as the back garden is to be regarded as part of the property, the Committee are of the view that the property is not fit for human habitation as required by Section 13(1)(a) of the Act; and

(j) The Committee noted that, from their own inspection, part of the hedge around the rear garden had been removed. Whilst the Committee recognised that there could be issues regarding access and security around the garden, the Committee were not, in all the circumstances, satisfied that there was a specific failure in relation to the repairing standard in relation to this matter.

(k) The committee noted that the bath panel is not fit for purpose, it is not waterproof and it is not possible to clean it properly. It was also noted that it is damaged and the committee were satisfied that this bath panel is not in a reasonable state of repair and in proper working order and as a fixture supplied by the landlord under the tenancy, does not meet the repairing standard as required by Section 13 (1) (d) of the Act;

18. The Committee accordingly proceeded to make a Repairing Standard Enforcement Order as required by Section 24(1) of the Act in respect of items a, b, c, d, e, f, g, i and k of the above paragraph 14.

19. The decision of the Committee was unanimous.

### **Right of Appeal**

20. 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**

21. 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.....

19/12/16

**L McManus**

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





Schedule of photographs taken during the inspection of 21 Tay Place, Johnstone  
PA5 0PB  
by the Private Rented Housing Committee on the 11 February 2016.

Reference Number : PRHP/RP/15/0280



External view - Front elevation of property



Smoke alarm fitting - GF Hall ceiling



Smoke alarm fitting - UF Landing ceiling



CO Alarm - UF landing



Kitchen window - side



Kitchen window - front



Double bedroom window to rear





Double bedroom window to front - right



Double bedroom window to front - left



Double bedroom window to front - left



Bathroom window



Bathroom window



External door to living room



External door to living room



Kitchen ceiling



Kitchen ceiling



Kitchen ceiling



Light fitting to Kitchen ceiling



Kitchen cabinet doors



Kitchen cabinet doors



Kitchen cabinet doors



Wiring and socket in cabinet adjoining cooker hob



Rear double bedroom ceiling



Bath



Bath



Wall adjacent to shower in bathroom



Bath panel



Side garden/path



Side garden/path



Side garden/path - most of hedge removed



Side garden/path - most of hedge removed