



## REPAIRING STANDARD ENFORCEMENT ORDER

### PROPERTY:

**0/1, 174 Calder Street, Glasgow G42 7QR, registered in the Land Register for Scotland,  
Title number GLA44908**

### THE PARTIES:

**Ms Blaithin O'Connor, residing at the property, (applicant and tenant)**

**and**

**Mr Michael George Forsythe and Mrs Laura Elizabeth Forsythe, per Grant Property  
Solutions Limited, 14 Coates Crescent, Edinburgh EH3 7AF (landlord)**

**PRHP Ref: RP/16/02518**

**Committee Members – David Preston (Chairperson); and Mike Links (Surveyor  
Member)**

- 1. WHEREAS** in terms of its decision dated 10 October 2016 the Private Rented Housing Committee ('the Committee') determined that the landlords had failed to comply with the duty imposed by section 14(1)(b) of the Housing (Scotland) Act 2006 ('the Act') and in particular the property failed to meet the repairing standard as set out in section 13(1) of the Act.

2. The Committee now requires the Landlords to carry out such work as is required to ensure the property meets the Repairing Standard and that any damage caused as a consequence of carrying out of any works in terms of this Order is also made good before the expiry of the Completion Date.

### **THE ORDER**

3. In particular, and without prejudice to the foregoing generality, the Committee **HEREBY ORDERS** the Landlords to carry out the following repairs ('the Works');-
  1. To commission a report from a suitably qualified timber and damp specialist in relation to evidence of dampness noted throughout the property and to carry out all necessary work to remedy the damp, as recommended in their report. .
  2. To carry out the recommendations in the report 10 August 2016 in respect of the damp in the party wall between Bedroom 1 and the close.
  3. To either relocate the tenant in suitable habitable accommodation whilst any significant building works are in progress or release the tenant from the tenancy agreement.
4. The Committee **HEREBY FURTHER ORDERS** that the Works specified in this Order must be carried out within **six** weeks from the date of service of this Order.

### **RIGHT OF APPEAL**

*A landlord or tenant has the right to appeal this decision to the Sheriff by summary application within 21 days of being notified of that decision.*

**EFFECT OF APPEAL**

*In terms of section 63 of the Act, where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by confirming the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined: IN WITNESS WHEREOF these presents consisting of this and the two preceding pages are subscribed as follows:*

D Preston

**..Chairman**

**Witness**

*10 October 2016* **.....Date of Signing**

*AREMIBAU GARDIN* **.....Name**

*OBAS* **.....Place of Signing**

*ARWON* **.....Address**

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**STATEMENT OF DECISION OF THE PRIVATE RENTED HOUSING COMMITTEE UNDER  
SECTION 24 OF THE HOUSING (SCOTLAND ACT 2006 AND THE PRIVATE RENTED  
HOUSING PANEL (TENANT AND THIRD PARTY APPLICATIONS)(SCOTLAND)  
REGULATIONS 2015**

**in connection with**

**PROPERTY:**

**0/1, 174 Calder Street, Glasgow G42 7QR, registered in the Land Register for Scotland, Title  
number GLA44908 (the property)**

**THE PARTIES:**

**Ms Blaithin O'Connor, residing at the property, (applicant and tenant)**

**and**

**Mr Michael George Forsythe and Mrs Laura Elizabeth Forsythe, per Grant Property  
Solutions Limited, 14 Coates Crescent, Edinburgh EH3 7AF (landlord)**

**PRHP Ref: RP/ 16/0258**

**Committee Members: David M Preston (convener) and Mike Links (surveyor member)**

**16 October 2016**

**Decision:**

**The Committee, having made such enquiries as are fit for the purposes of determining  
whether the landlord had complied with the duty imposed by section 14(1)(b) of the Housing**

**(Scotland) Act 2006 (hereinafter referred to as "the Act") in relation to the property, and taking account of the representations by both the landlord and the tenant:**

- 1. Determined that the landlord had failed to comply with the said duty; and**
- 2. Determined to issue a Repairing Standard Enforcement Order under section 24(2) of the Act.**

**Background:**

1. By application received 29 July 2016 the tenant sought a determination of whether the landlord had failed to comply with the duties imposed by section 14(1)(b) of the Act.
2. The tenant complained that the landlord had failed to ensure that the property met the Repairing Standard in respect that:
  - a) The property was not wind and watertight and in all other respects reasonably fit for human habitation;
  - b) Fixtures, fittings and appliances provided by the landlord under the tenancy were not in a reasonable state of repair and proper working order;
3. In particular the tenant complained as follows: the bedroom experienced water ingress from the flat above; the wall is very damp and black mould is growing; dehumidifier needs to be changed twice a day and uses a lot of electricity; damp smell in flat and on clothes; clothes in wardrobes are damp and wet, needing to be washed several times to eliminate odour; damp and mould has caused the wall and ceiling paper to become loose and tear away from the wall leaving a huge gap; the mould growth and dampness has led to health issues; leaking from the roof (understood by the Committee to be "ceiling") which had been brought to the landlord's attention; the shower curtain and its rail have come off the wall, consequently water lies on the bathroom floor; communal front door has missing metal plates meaning door does not shut properly; front door to the flat is cracked and appears to be very insecure. In subsequent emails the tenant complained that: the toilet did not flush and it leaked; the blinds in the flat were old and dirty; the floorboards in the hall were suspected as being loose or insecure.
4. By Minute of Decision dated 2 August 2016 the application was referred to the Committee. A Notice of Referral, Inspection and Hearing dated 23 August 2016 was sent to the parties and the Panel scheduled the inspection and hearing for 27 September 2016

5. Following service of the Notice of Referral, further written representations were received from the applicant on the tenant response form dated 12 September 2016. The landlord response form dated 1 September 2016 indicated that the landlord representative intended to attend the hearing.

**Inspection:**

6. The Committee attended at the property on the morning of 27 September 2016 for the purpose of carrying out an inspection. The tenant was present at the property throughout the inspection together with her boyfriend, Aaron Whitelaw. There was no attendance by or on behalf of the landlord.
7. The property comprises a ground floor flat in a four-storey grey sandstone tenement block with red rubble section at ground floor level on the front elevation under tiled roof.
8. The inspection revealed:
  - a) Severe dampness in the party wall with the close at high level in the left front bedroom (Bedroom 1). The affected area appeared to have been recently decorated. The tenant advised that a decorator had attended on the previous Friday and removed the affected, damaged wallpaper. He returned on the Sunday and re-papered and emulsioned the area. Damp readings taken by the surveyor member indicated excessively high levels of dampness as demonstrated in the photographs contained in the schedule attached.
  - b) In the adjacent room to the front of the flat (Bedroom 2) severe dampness was detected at a lower level in the party wall with the adjacent property (Number 182, Calder Street), as demonstrated in the photographs contained in the schedule attached.
  - c) In the kitchen area an area of severe damp was evident without the need for the damp meter as indicated in the photographs contained in schedule attached.
  - d) The entrance door to the flat was seen to be superficially damaged but efforts had been made to strengthen it and the areas around the locks.
  - e) The electronic locking mechanism on communal entrance door was found to have been broken away from the door rendering the communal entrance security system inoperable.
  - f) The shower curtain and rail had been attached to the wall prior to the inspection.

- g) The floorboards in the hall which had been complained of were found to be in an acceptable condition, within the limited inspection which did not involve removing floor coverings.
9. Although it did not form part of the application, the Committee noted that there was a smoke detector situated in the hall. Mr Whitelaw attempted to test the smoke detector in the hall but it did not work. The Committee would recommend that the landlord has regard to the current Scottish Government Statutory Guidance on Satisfactory Provision for Detecting and Warning of Fires, full details of which can be found on the PRHP website.

**Hearing:**

10. Following the inspection, the Committee attended at Wellington House, 134 – 136 Wellington Street Glasgow for the purpose of the hearing. The tenant attended the hearing along with her boyfriend, Mr Whitelaw. The landlord was represented by Ms Sharon Murray and Mr Jack Florence, both of Grant Property Solutions Limited.
11. Ms Murray advised that since December 2015 there had been found to be various leakages of water from the property above. She said that when the tenant viewed the property before entering the lease there was water evident. Ms Murray said that it had taken longer than anticipated to have the problem identified and repaired as there had been difficulty in gaining access to the property above and the Environmental Health Department had become involved in about May 2016. Ultimately they had carried out the work themselves in August.
12. The upstairs flat bathroom and kitchen are situated above the affected area and it had transpired that as well as there having been a leak from the kitchen sink, the occupant of the flat had been in the habit of throwing buckets of water on the floor and mopping it up to clean it, which resulted in water running down to the ground floor flat.
13. Ms Murray advised that she had never been to the property and had not carried out any inspection of it which was the responsibility of the property manager. She explained that there had been a report prepared by Mr Hutchison of Allied Surveyors in connection with a re-generation programme which would affect the area. Ms Murray offered to submit a copy of the report to the Committee.
14. The tenant reported that the dehumidifier had to be emptied twice a day.

15. With regard to the door entry system, Ms Murray informed that there was no factor for the property which caused difficulties. The other occupants did not seem sufficiently interested to have effective repairs carried out. When repairs had been carried out it had very quickly been broken again. She suggested that this might also be addressed in the re-generation scheme.

16. In relation to the entrance door to the flat, she confirmed her understanding that two locks and a chain had been fitted to improve security although she did accept that the chain could not be applied when the flat was left.

#### **Summary of Issues:**

17. The issue to be determined was whether the property met the repairing standard as laid down in section 13 of the Act and whether the landlord had complied with that duty imposed by section 14(1)(b).

#### **Findings and Reasons:**

18. In coming to its decision, the Committee had regard to: the representations of the parties; copy Short Assured Tenancy Agreement dated 1 June 2016 and accompanying papers; copy Land Certificate for the property, title number GLA44908; email correspondence between the tenant and Grant Property Solutions Limited; letter from Dr Alison Parrett, University of Glasgow dated 27 July 2016; letter from Citizens Advice Bureau dated 28 July 2016; list of crime reference numbers ; letter from Students Representative Council dated 29 July 2016; letter from Brown & Co dated 15 August 2016; letter from Palace Medical Practice dated 19 August 2016.

Following the hearing, the landlord's agents submitted the report to which they made reference during the hearing from Mr Hutchison, Allied Surveyors dated 10 August 2016.

It also had regard to its own observations throughout the inspection.

19. The Committee determined that the property suffered from severe damp issues in different areas which appear to result from different causes. It was surprised to note that efforts had been made to re-decorate Bedroom 1 without having allowed the plasterwork to dry out sufficiently to mean that the decoration would be effective. The Committee considered the terms of the report from Mr Hutchison dated 10 August 2016. In doing so it has assumed that



the "Front Lounge" referred to in the report is equivalent to what the Committee were shown as "Bedroom 2".

20. The report recommends that "...damp and defective plaster should be cut back, re-plastered, allowed to dry and decoration re-instated." It was apparent to the Committee that this recommendation had not been followed by the landlord and that the only effort made had been to attempt to replace the wallpaper and re-emulsion.
21. Ms Murray said at the hearing that the report had been obtained from Allied Surveyors in connection with a re-generation programme but the report makes no mention of such a programme.
22. In relation to what he identifies as "the lounge", Mr Hutchison's report refers to drying out but this was not an area to which the Committee's attention was drawn. The report says that he had checked the upper wall of the party wall with the bedroom (assumed to be the party wall between Bedroom 1 and Bedroom 2), but makes no mention of the low-level dampness identified by the Committee in Bedroom 2. The Committee was not referred to any issue in the party wall between the two bedrooms.
23. Mr Hutchison's report indicates that the kitchen requires further investigation by obtaining access to the adjoining flat. However the Committee discovered a damp problem at a low-level which appeared to extend along the full length of the party wall between the property and number 182 and considers that a further and fuller investigation of the dampness and any timber or Damp Proof Course issues should be carried out from within the property.
24. The Committee noted that as stated by Ms Murray, the issues in relation to the extensive dampness in Bedroom 1 had been identified by the landlord in December 2015 and that the Environmental Health Department had become involved in May 2016 although the work had not been carried out until August 2016. The Committee determined that the landlord had accordingly failed to comply with his duty in the terms of section 14 (1) of the Act to ensure that the house meets the repairing standard at the start of the tenancy and at all times during the tenancy. The property should not have been let out to the tenant in June 2016 while it was suffering from water ingress from whatever cause. It was not "wind and watertight and in all other respects reasonably fit for human habitation".
25. The Committee had regard to the letters from Glasgow University, Citizens Advice Bureau and Palace Medical Practice and considered that, the work which would be required to carry out full investigations as outlined above and in carrying out the work to resolve the dampness

issues in the property would result in serious health issues for the tenant were she required to remain in the property. Accordingly the Committee considered that in terms of section 24 (5) of the Act, in order to comply with the terms of the Repairing Standard Enforcement Order (RSEO) to be issued the landlord is required, to either: re-house the tenant in suitable accommodation during the period of such work; or to release her from the tenancy agreement.

26. The Committee determined in relation to the other issues identified by the tenant:

- a) The shower curtain and rail had been re-fixed to the wall and made no finding in this regard. The tenant confirmed that she was content with the curtain and rail, although she pointed out that the electric shower control unit did not work and it was necessary to use the main power switch in the hall to operate it. This did not form part of the application and there was no evidence that any notification had been given to the landlord and accordingly the Committee was not prepared to consider this issue.
- b) The landlord had taken reasonable steps to address the issue of the common door entry and the Committee made no finding in this regard.
- c) The toilet flush and leak had been addressed and made no finding in this regard.
- d) The floorboards in the hall were in a satisfactory condition and made no finding in this regard.
- e) It would be unreasonable for the blinds to be replaced prior to completion of the necessary works to the flat and made no finding in this regard.

27. As noted above, the Committee was not satisfied that the property had satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire. As this did not form part of the tenant's application, the Committee was unable to include a formal requirement within the RSEO to follow hereon. However in view of the serious nature of the potential consequences of a lack of such provision, the Committee does recommend that the landlord should have regard to and take steps to implement the current Scottish Government Statutory Guidelines on Satisfactory Provision for Detecting and Warning of Fires, full details of which can be found on the PRHP website.

**Right of Appeal:**

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:**

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.

D Preston

*10 October 2016*