



**DETERMINATION BY PRIVATE RENTED HOUSING COMMITTEE re FAILURE
TO COMPLY**

**STATEMENT OF DECISION OF THE PRIVATE RENTED HOUSING COMMITTEE
UNDER SECTION 26(1) OF THE HOUSING (SCOTLAND) ACT 2006**

In connection with

**Property at 19 Craigneuk Street, Wishaw ML2 7DX
(hereinafter referred to as "the house")**

Title Number: LAN52204

**MR KRZYSZTOF SIUTKOWSKI, residing at 19 Craigneuk Street, Wishaw
ML2 7DX ("the Tenant")**

**JOHN ALEXANDER STRANGE and PAUL McHUGH, as partners of and trustees
of the firm of S & M PROPERTIES, Strathclyde Business Centre, 120 Carstairs
Street, Glasgow G40 4JD ("the Landlords")**

Reference PRHP/RP/15/0196

Committee - Richard Mill (Chairman) and Mike Links (Surveyor Member)

BACKGROUND

1. Reference is made to the Determination of the Private Rented Housing Committee ("the Committee") dated 3 November 2015, which decided that the Landlords had failed to comply with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act ("the Act"), and to the Repairing Standard Enforcement Order ("the RSEO") dated 3 November 2015 confirming that the Landlords had failed to ensure the property meets the repairing standard in respect of Sections 13(1)(a), (b), (c) and (d) of the Act.

The RSEO required the Landlords to undertake works as is necessary for the purposes of ensuring that the property concerned meets the Repairing Standard and that any damage caused by the carrying out of any work in terms of the said Order is made good.

In particular the Private Rented Housing Committee required the Landlords:-

1. To instruct a suitably qualified roofing contractor to inspect the whole roof

above the property, both the front and rear elevations, and report on the necessary works required to eradicate any water ingress and to make the property wind and watertight. The works recommended for repair or replacement must thereafter be implemented by the Landlords.

2. The cold storage water tank in the attic of the property requires to be covered. The tank and water system supplied by it requires to be flushed to eradicate any bacteria.
3. To instruct a suitably qualified contractor to inspect and report upon the condition of the rear windows of the property. The Landlords require to implement the terms of such report to include repair and/or replacement as necessary and to include re-pointing and re-painting.
4. A full report on the condition of the boiler requires to be produced by a suitably qualified Gas Engineer for the Committee's inspection. Such report is to specifically address the water pressure of the gas central heating system and to ensure that all steps have been taken to ensure that the water pressure is maintained and that it does not require to be frequently topped up. Additionally, the report to be produced should also advise upon the remote room thermostat and, if necessary, steps must be taken to ensure that this is working adequately.
5. A suitably qualified engineer requires to inspect and report upon the condition of the extractor fan in the bathroom and connecting venting duct, and advise upon any steps which must be taken to ensure that it is working efficiently and that it is capable of removing excess moisture. The Landlords must implement any repairs and/or replacement recommended.
6. A current Gas Safety Certificate must be produced for the Committee's inspection.
7. An Electrical Installation Condition Report (EICR) must be produced for the Committee's inspection.

The Private Rented Housing Committee required that the works specified in the Order must be carried out and completed within 8 weeks from the date of service of the Notice.

2. A re-inspection of the property was conducted by the Surveyor Member of the Committee on Thursday 14 January 2016. The Tenant's brother was present and provided access to the Property. The Landlords were neither present nor represented.

3. The re-inspection disclosed that some of the works required in terms of the Repairing Standard Enforcement Order had been carried out. However the majority of the works required had not. The Re-inspection Report detailing this was issued to parties for their comments on 14 January 2016. No comments were received.

4. In respect of the issues required in terms of the Repairing Standard Enforcement Order, the Committee concluded the following:-

1. The condition of the roof is now in a worse condition than observed at the time of the original inspection. Continued water penetration and consequential severe dampness was noted.
2. The cold water storage tank appears to have been made redundant with cold water being supplied directly from the mains. It was noted however that the water pressure to the taps fluctuates.
3. The requirements have been implemented by the Landlords. The rear windows have been overhauled and painted.
4. No Report by a suitably qualified Gas Engineer in respect of the condition of the boiler has been produced as required. The water pressure in the system has been maintained over the recent period but the Tenant continues to complain that the hot water temperature fluctuates and sometimes runs cold. The room thermostat does not operate.
5. Water continues to leak from the bathroom ventilator. No evidence has been produced to suggest that this has been remedied.
6. No Gas Safety Certificate has been produced by the Landlords.
7. No Electrical Installation Condition Report (EICR) has been produced by the Landlords.

5. The Committee was satisfied based upon all of the information and evidence available that the Landlords have failed to comply with the Repairing Standard Enforcement Order previously issued. The Committee did not consider the failure to comply was due to a lack of necessary rights of access or otherwise. The Landlords previously complained that they were not solely responsible for the maintenance and repair of the common roof. That is irrelevant. The Landlords have responsibilities to the Tenant and any future tenants. Their responsibility is to make the property wind and watertight and thereafter, if necessary, to recover sums from the other heritable proprietors in shares dictated by the relevant Title Deeds.

6. The Committee considered and determined to issue a Rent Relief Order. The issues outstanding include matters both of a material and immediate nature which significantly adversely affect the Tenant's enjoyment and use of the property and are of a serious health and safety concern. The Committee have been unimpressed by the lack of engagement of the Landlords in the manner in which they have approached this process. The Committee had no hesitation in issuing a Rent Relief Order at a level of 90%.

DETERMINATION AND REASONS

The Committee considered the circumstances as earlier set out. The Committee unanimously decided in terms of Section 26(1) of the Act that the Landlords have failed to comply with the RSEO and directed that a notice of the failure be served on the Local Authority for which the property is situated.

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.

The appropriate respondent in such appeal proceedings is the other Party to the proceedings and not the Private Rented Housing Panel or the Committee which made the decision.

Effect of Section 63

Whereas 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 28 days from the day on which the appeal is abandoned or so determined.

In witness whereof these presents typewritten on this and the preceding page(s) are executed by Richard Mill, Solicitor, chairperson of the Private Rented Housing Committee at Edinburgh on the Second day of February Two Thousand and Sixteen before this witness:-

MJ Murray

R Mill

witness

chairman

Margaret Johnstone Murray
21 Stafford Street
Edinburgh
EH3 7BJ

Legal Secretary



Rent Relief Order

Ordered by the Private Rented Housing Committee

prhp Ref: PRHP/RP/15/0196

Title Number: LAN52204

Re : 19 Craigneuk Street, Wishaw ML2 7DX (hereinafter referred to as "the house")

The Parties:

MR KRZYSZTOF SIUTKOWSKI, residing at 19 Craigneuk Street, Wishaw ML2 7DX ("the Tenant")

JOHN ALEXANDER STRANGE and PAUL McHUGH, as partners of and trustees of the firm of S & M PROPERTIES, Strathclyde Business Centre, 120 Carstairs Street, Glasgow G40 4JD ("the Landlords")

Committee - Richard Mill (Chairman) and Mike Links (Surveyor Member)

NOTICE TO JOHN ALEXANDER STRANGE and PAUL McHUGH ("the Landlords")

Whereas in terms of their decision dated 3 November 2015, the Private Rented Housing Committee ("the Committee") determined in terms of Section 26(1) of the Housing (Scotland) Act 2006 (the "said Act") that the Landlord has failed to comply with the Repairing Standard Enforcement Order in relation to the house made by the Committee.

The Committee determined to make a Rent Relief Order in terms of Section 27 of the said Act reducing the rent payable under the tenancy for the house by an amount of 90% 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 Rent Relief Order may be appealed under section 64 of the said Act.

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. Where the appeal is abandoned or finally determined by confirming the decision, the Rent Relief Order 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 and the preceding page(s) are executed by Richard Mill, Solicitor, 21 Stafford Street, Edinburgh EH3 7BJ, chairperson of the Private Rented Housing Committee at Edinburgh on 2 February 2016 before this witness:-

MJ Murray

R Mill

witness

chairman

MARGARET JOHNSTONE MURRAY name in full

21 STAFFORD STREET Address

EDINBURGH

EH3 7BJ

LEGAL SECRETARY Occupation