



**Statement of decision of the Private Rented Housing
Committee under Sections 26 and 27 of the Housing
(Scotland) Act 2006**

prhp ref: RP/15/0202

**Re 1 Kirkstone, Kirkvale Court, Glasgow, G77 5HG being the subjects
registered in the Land Register of Scotland under title number
REN44139 ('the Property')**

The Parties:-

Ms Katy McColl residing at the Property ('The Tenant')

**Mr Philip Firestone residing at 7 The Toll, Busby Road, Clarkston,
Glasgow G76 7BG ('The Landlord')**

Background

1. By application dated 12TH July 2015 the Tenant applied to the Private Rented Housing Panel for a determination of whether the Landlord has failed to comply with the duties imposed by Section 14 (1) (b) of the Housing (Scotland) (Act) 2006 ("the 2006 Act).
2. On 8th October 2015 the Private Rented Housing Committee (comprising Martin Joseph McAllister, Chairman and Legal Member and Susan Napier, Surveyor Member) ("the Committee") made a determination which decided that the Landlord had failed to comply with the duty imposed by Section 14 (1) (b) of the 2006 Act in respect of the Property. On the same date the Committee made a repairing Standard Enforcement Order ("RSEO") in respect of the Property. The RSEO was in the following terms:

(One) The Landlord is to eradicate water ingress in the principal
bedroom
(Section 13(1) (a) of the Act).

(Two) The Landlord is to install sufficient mechanical extraction in the bathroom to eradicate the formation of mould on the walls.
(Section 13 (1) (b) of the Act).

(Three) The Landlord is to replace or repair the W.C. so that it operates effectively in removal of solid matter.
(Section 13(1) (c) of the Act).

(Four) The Landlord is to provide a space heating system that works efficiently and does not have excessive noise when being operated. The Landlord requires to provide to the Private Rented Housing Panel Committee a report from a suitably qualified engineer confirming that the space heating system works efficiently and without excessive noise.

(Section 13(1) (c) of the Act).

The Private Rented Housing Committee required that these works be completed by 7th December 2015.

3. On 17th December 2015 Mike Links, Surveyor inspected the Property having been instructed and authorised by the Committee to do so in terms of Section 18 (3) of The Private Rented Housing Panel (Applications and Determinations) (Scotland) Regulations 2007. The Tenant was present as was Mr Arr who is the Landlord's agent.
4. Mr Links provided a report on his inspection dated 17th December 2015 and this was copied to the parties. A copy of the report is attached.
5. The report disclosed that in relation to the matters referred to in the RSEO some work had been done but that there were still outstanding matters:
 - 5.1 Sealant had been applied to the external drip sill located at the window lintol. The surveyor noted that there had been heavy and prolonged rainfall since the work had been carried out and the Tenant reported to him that no water had dripped since the repair. The surveyor considered that the repair had been effective.
 - 5.2 No mechanical extraction had been installed in the bathroom.
 - 5.3 The WC had not been repaired or replaced.
 - 5.4 The Tenant advised the surveyor that repair work had been carried out to the central heating system which seems to have been successful. The surveyor noted that a thermostatic valve still

requires to be installed in a radiator in the kitchen. No report was available from a suitably qualified engineer.

5.5 The surveyor noted that there is still a battery operated smoke detector and that this is the only detector in the Property. The surveyor stated that the previously indicated scheduled works had not been carried out.

6. The Tenant made representations on the Inspection Report on 28th December 2016 and said that she considered that the report is accurate. In the email from the Tenant she raised matters concerning issues which are not related to the application before the Committee.

7. Neither the Landlord nor his agent made representations on the Inspection Report.

8. The Committee considered matters on 14th January 2015. It acknowledged that it had to determine whether the landlord has carried out the works required by the RSEO dated 8th October 2015

9. The Committee made the following findings in fact:

The RSEO has not been complied with

9.1 The water ingress at the bedroom window appears to have been rectified.

9.2 No mechanical extraction has been installed in the bathroom.

9.3 The W.C. has not been repaired or replaced.

9.4 A repair has been carried out to the heating system but no certificate has been produced from a suitably qualified engineer.

9.5 The battery operated smoke detector has not been replaced or augmented.

10. The Committee's reasons for the findings in fact are the terms of the surveyor's inspection report of 17th December 2015 and the representations of the Tenant of 28th December 2015

11. The Committee considered what action, if any, it should take in relation to the Landlord's failure to comply with the RSEO.

11.1 The Committee considered that the fact that the Landlord had not complied with the RSEO had implications for the Tenant and considered it appropriate that a Rent Relief Order be made and that the rent be reduced by 20%. The Committee considered that a reduction of this order would fairly reflect the ongoing inconvenience to the Tenant as a result of the Landlord's failure to comply in full with the RSEO.

11.2 The Committee also decided to serve notice of the Landlord's failure to comply with the RSEO on the local authority.

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 of the 2006 Act

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.

Martin McAllister

Signed Date: 18th January 2016
Martin J. McAllister
Chairperson

Mike Links



PRHP Re-inspection report:



Property: 1 Kirkstone, Kirkvale Ct, Newton Mearns,

Glasgow G77 5HG

Ref no: PRHP/RP/15/0202

Surveyor: Mike Links, FRICS.

The surveyor member of the Committee was unable to attend.

In Attendance: Ms Katy McColl (Tenant)

Mr Arr (Landlord's Agent)

Weather: Wet.

Access: I re-inspected the property 17th December 2015 at 10am

RSEO: The following works are required by the RSEO following on from the Inspection and Hearing on 2nd October 2015.

(One) The Landlord is to eradicate water ingress in the principal bedroom. (Section 13(1) (a) of the Act).

(Two) The Landlord is to install sufficient mechanical extraction in the bathroom to eradicate the formation of mould on the walls. (Section 13(1) (b) of the Act).

(Three) the Landlord is to replace or repair the w.c. so that it operates effectively in removal of solid matter.

(Section 13(1) (c) of the Act).

(Four) The Landlord is to provide a space heating system that works efficiently and does not have excessive noise when being operated. The Landlord is to provide to the Private Rented Housing Panel Committee a report from a suitably qualified engineer confirming that the space heating system works efficiently and without excessive noise. (Section 13 (1) (c) of the Act).

The Private Rented Housing Panel Committee requires these works must be completed by 7th December 2015

Works in RSEO undertaken:

(One) The Landlord's Agent advises that sealant has been applied to the external drip sill located at the window lintol. This work was undertaken about two weeks ago.

The Tenant confirms that no water has dripped into the room for about four weeks. During the last few weeks there have been heavy and prolonged spells of rainfall.

Whilst the internal decoration is stained, the ingoes and walls surrounding the window shows signs of some dampness though some areas appear to be drying out.



In my opinion the evidence suggests that the repair has been successful and is taking effect.

(Four) The tenant advises that repair work carried out to the central heating system appears to have been successful. She states that the heating is “working fine”

A thermostatic valve remains to be installed to the kitchen radiator.

A qualified heating engineer’s report on the system has not been exhibited.



Works in RSEO outstanding:

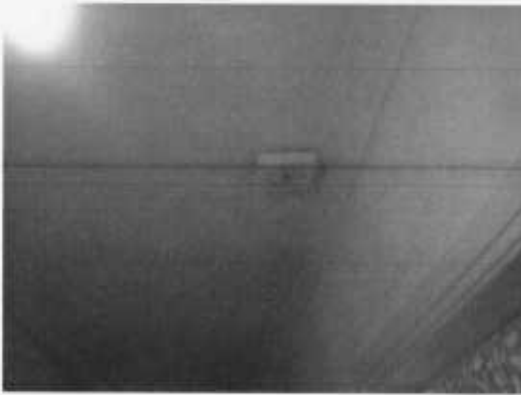
(Two) A mechanical installation system has not been installed in the bathroom.



(Three) The w.c. has not been repaired or replaced.



It should be noted that despite assurances from the Landlord/Agent to upgrade the flat to comply with the regulations for smoke and heat detection , there remains a single battery operated smoke detector only.



All photographs in this report were taken on the day of inspection.

Recommendation:

Once the re-inspection report is forwarded to the Landlord and/or Landlord's agent for comment the committee will then decide what further action is required.

Mike Links, FRICS

Surveyor Member

Private Rented Housing Panel

Date: 17th December 2015.



Rent Relief Order

Ordered by the Private Rented Housing Committee

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The Parties:-

Ms Katy McColl residing at the Property ("The Tenant")

Mr Philip Firestone residing at 7 The Toll, Busby Road, Clarkston, Glasgow G76 7BG ('The Landlord')

NOTICE TO

Mr Philip Firestone, 7 The Toll, Busby Road, Clarkston, Glasgow G76 7BG

Whereas in terms of their decision dated 15th January 2016, the Private Rented Housing Committee ("the Committee") have determined in terms of Section 26(1) of the Housing (Scotland) Act 2006 ("the 2006 Act") that the Landlord has failed to comply with the Repairing Standard Enforcement order in relation to the Property made by the Committee on 19th October 2015.

The Committee determined to make a Rent Relief Order in terms of Section 27 of the 2006 Act reducing the rent payable under the tenancy for the Property by an amount of 20% 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 Act.

Where such an appeal is made, the effect of the variation is suspended until the appeal is abandoned or finally determined and, where the appeal is abandoned or finally determined by confirming the decision, the variation will be treated as having effect from the day on which the appeal is abandoned or so determined.

In witness whereof these presents typewritten on this page are executed by Martin Joseph McAllister, chairperson of the Private Rented Housing Committee at Saltcoats on eighteenth January two thousand and sixteen before this witness Andrew Blair, Solicitor, 51 Hamilton Street, Saltcoats.

Andrew Blair Martin McAllister