



**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 Flat 0/1, 84 Clifford Street, Glasgow G51 1QH
(hereinafter referred to as “the property”)**

**PATRICK McMANUS and EMMA KANE, residing together at Flat 0/1, 84 Clifford
Street, Glasgow G51 1QH (“the Tenants”)**

IRAM NOSHEEN ASHRAF, 6 Matilda Road, Glasgow G41 5DY (“the Landlord”)

Reference PRHP/RP/15/0242

Committee - Richard Mill (Chairman) and David Godfrey (Surveyor Member)

Title Number: GLA70563

BACKGROUND

1. Reference is made to the Determination of the Private Rented Housing Committee (“the Committee”) dated 13 November 2015, which decided that the Landlord 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”) of the same date confirming that the Landlord had failed to ensure the property meets the repairing standard in respect of Sections 13(1)(c), (d) and (f) of the Act and which set out the obligations of the landlord to remedy their failures.

The RSEO required the Landlord 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 Landlord:-

1. A qualified gas engineer requires to be instructed to investigate all gas appliances within the Property and produce a Gas Safety Certificate. The gas fire in the living room, should it not be compliant, should be replaced or

removed.

2. A qualified electrician requires to be instructed to provide an Electrical Installation Condition Report (EICR) on the condition of the electrics within the Property and any work required should be undertaken to ensure that there are no C1 or C2 recommendations.
3. A qualified plumber requires to be instructed to investigate the functionality of the hot and cold taps above the bath and these are to be repaired or replaced to ensure that they can both be turned on and off, and provide adequate water flow.
4. Smoke detectors are to be installed in the Property in accordance with the Scottish Government Statutory Guidance currently in force.
5. The old fridge freezer removed from the Property which was replaced and which is situated outside at the rear of the Property in the garden area should be removed.

The Private Rented Housing Committee required that the works specified in the Order must be carried out and completed within 21 days 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 Tuesday 29 December 2015. The Tenants were present and provided access to the Property. The landlord was neither present nor represented.

3. The re-inspection disclosed that some works required in terms of the Repairing Standard Enforcement Order had been carried out whilst others had not. The re-inspection report was issued to parties for comments. E mails were received by both parties on 18 January and a further e mail from the tenants was received on 19 January with further comments upon the landlord's position. These further representations have been considered by the committee.

4. The Tenants accepted that a gas safety inspection had been carried out and a Gas Safety Certificate issued. A copy of the relevant Gas Safety Certificate was produced on behalf of the landlord. The gas fire in the living room remained in situ but had been disconnected. The hot and cold taps above the bath had been replaced and were operative. Smoke detectors had been installed in the living room and hall and a heat detector had been installed in the kitchen. Items 1, 3 and 4 of the Repairing Standard Enforcement Order issued previously had been complied with. The committee are similarly satisfied about this.

5. Copies of an Electrical Installation Condition Report (EICR) and a Portable Appliance Test (PAT) Certificate were produced on behalf of the Landlord. These Reports are dated 15 November 2015. The Tenants complained that the documents are false. They stated that no such investigation or electrical assessments had been undertaken on that day. They stated that they had telephoned the author of the EICR Report who could not remember being at the Property and that the document could not be relied upon. The committee, in the absence of any further explanation

by or on behalf of the landlord in these circumstances, are unable to rely upon these electrical Reports which have been produced.

6. Items 2 and 5 of the Repairing Standard Enforcement Order have not been complied with. The old fridge freezer previously removed from the Property remained situated in the garden.

7. In addition to the formal items specified within the Repairing Standard Enforcement Order a number of other undertakings had been given on behalf to the Landlord at the Hearing.

- A carbon monoxide detector was to be installed but has not been carried out. This is now a statutory requirement.
- The defective laminate flooring in the bedroom was to be placed and this has been completed.
- A mortice lock was to be fitted to the front door and this has been completed.
- An inspection of the Property was to be carried out by a Pest Control Specialist in respect of the moth infestation. This has now been instructed.

8. The committee was satisfied based upon all of the information and evidence available that the landlord has failed to fully comply with the Repairing Standard Enforcement Order previously issued. The committee did not consider that the Failure to Comply with the Repairing Standard Enforcement Order was due to a lack of necessary rights or access or otherwise.

9. The committee considered and determined to issue a Rent Relief Order. The Tenants made application for such an Order given all the circumstances set out. The issues outstanding include matters of a serious health and safety concern. The committee have been unimpressed by the engagement of the landlord and the manner in which he has approached this process. The committee have concluded that an attempt to mislead has occurred with the production of the EICR, the authenticity of which has been placed in doubt.

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 Landlord had 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 Twenty-eighth day of January Two Thousand and Sixteen before this witness:-

M. MURRAY

witness

R. MILL

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/15/0242

Re : Flat 0/1, 84 Clifford Street, Glasgow G51 1QH (hereinafter referred to as "the house")

Title Number: GLA70563

The Parties:

PATRICK McMANUS and EMMA KANE, residing together at Flat 0/1, 84 Clifford Street, Glasgow G51 1QH ("the Tenants")

IRAM NOSHEEN ASHRAF, 6 Matilda Road, Glasgow G41 5DY ("the Landlord")

Committee - Richard Mill (Chairman) and David Godfrey (Surveyor Member)

NOTICE TO IRAM NOSHEEN ASHRAF, 6 Matilda Road, Glasgow G41 5DY ("the Landlord")

Whereas in terms of the decision of equal date, 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. This significant reduction in rent is to reflect the serious state of disrepair of the property and the potential immediate dangers arising therefore. 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 28 January 2016 before this witness:-

M. MURRAY

witness

R. MILL

chairman

MARGARET JOHNSTONE MURRAY name in full

21 STAFFORD STREET Address

EDINBURGH

EH3 7BJ

LEGAL SECRETARY Occupation