



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

PRHP Ref: RP/16/0064

Re: Property at 47 Stanmore Crescent, Lanark ML11 7DF ("the Property")

Title No: LAN 15033

The Parties:-

Mr George Stodart, 47 Stanmore Crescent, Lanark ML11 7DF ("the Tenant")

Mr Paul Reilly 9 Balmoral Crescent, West End, Carstairs, Lanark ML11 8RX; Mr Paul Reilly, 20 Clark Terrace, Carnwath ML11 8JB ("the Landlord")

Decision

The Committee, having made such enquiries as it saw fit for the purposes of determining whether the Landlord has complied with the Repairing Standard Enforcement Order in relation to the property, and taking account of the findings from the re-inspection of the property on 15 September and 14 November 2016 determined that the Landlord had failed to comply with the Repairing Standard Enforcement Order.

The Committee comprised:-

Mrs Josephine Bonnar, Chairperson

Ms Carol Jones, Surveyor Member

Background

- 1. By application received on 16 February 2016 the Tenant applied to the Private Rented Housing Panel for a determination of whether the Landlord had failed to comply with the duties imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 ("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 house meets the repairing standard. The Tenant did not specify in his application which elements of the repairing standard had not been complied with but specified the following issues:- draughts from the front door, lack of hot water, difficulty opening the bathroom door**

because the floor is swollen, damp in the living room and bedroom, difficulty heating the living room, damage to external plaster work at the base of the property and front door step and no carbon monoxide detector.

3. The Private Rented Housing Committee served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon both the Landlord and the Tenant on 3 May 2016.
4. Following service of the Notice of Referral neither the Landlord nor the Tenant made written representations. The Landlord intimated that he had a hospital appointment on the day of the inspection and hearing but that he wished both to proceed in his absence.
5. The Private Rented Housing Committee inspected the property on the morning of 13 June 2016. Only the Tenant and his partner were present during the inspection.
6. Following the inspection of the property the Private Rented Housing Committee held a hearing at Lanark Sheriff Court, Hope Street, Lanark. The Tenant was present and gave evidence. The Landlord did not attend the hearing and no evidence was led on his behalf.
7. Following the hearing the Committee proceeded to make a Repairing Standard Enforcement Order (RSEO). In terms of the RSEO the Landlord was required (1) To instruct a suitably qualified building contractor to inspect the property, investigate the cause of any dampness and condensation in the living room and bedroom and carry out any recommended repairs to eradicate same, (2) To repair the front door so that draughts are effectively excluded from the property, (3) To instruct a registered gas safe engineer to inspect the boiler and living room radiator to establish the cause of any leaks and carry out any repairs required to rectify same, and (4) To obtain and exhibit a current gas safety record in relation to the property. The work was to be completed within 4 weeks of service of the RSEO.
8. The RSEO was served on the parties.
9. On the 15 September 2016 the Surveyor Member of the Committee re-inspected the property. The Tenants partner May Donnachie was present and allowed access. Neither the Tenant nor the Landlord was present. The Surveyor Member noted that damp meter readings in the bedroom and living room still showed moderate to high readings along the base of the walls. Mould was evident in the living room. The boiler and living room radiator continued to leak. Ms Donnachie advised that some adjustment to the front door had been made and draughts were not as severe. She also advised that two building contractors had visited the property and suggested different courses of work but neither had returned to progress any work. No

gas safety record had been received by the Tenant nor had same been submitted to the PRHP. The Surveyor Member prepared a re-inspection report which was issued to the parties. Neither party submitted comments or representations in response to the report.

10. The Committee re-inspected the property on 14 November 2016. Ms Donnachie allowed access and was present. Neither the Tenant nor the Landlord was present. Thereafter a hearing took place at Brandon Gate, 1 Leechlee Road, Hamilton. Neither party attended or was represented at the hearing.

The Re-inspection

11. At the time of the inspection the weather was wet and cold. The Committee were able to inspect the whole property. The Tenants partner May Donnachie was present. She advised the Committee that a contractor had attended at the property on Friday 11 November 2016 in connection with the dampness/condensation. He advised that extractor fans were needed at the property to address the issue of condensation. No information had been provided as to when and if the work would be carried out. In addition a gas engineer had attended on 10 November. He had repaired the boiler and living room radiator and these no longer leak. The Committee noted that the leaks evident at the previous inspections appear to have resolved. The engineer had also altered the boxing around the boiler flue and created two hatches to allow inspection of the flue extensions which are located behind same. The Committee inspected the walls in the living room and bedroom. Low to moderate damp meter readings were obtained. No mould was evident and Ms Donnachie confirmed that there has been no mould since the last inspection. The Tenant continues to use dehumidifiers in both rooms. The Committee inspected the front door. Ms Donnachie confirmed that the draughts have largely resolved and she has been able to dispense with the curtain which previously covered the internal door to the living room. No gas safety record has been exhibited to the Tenant although Ms Donnachie advised that the engineer promised to provide one.

The Hearing

12. Neither party attended the hearing. No evidence was heard by the Committee.

Reason for decision

13. The Committee considered the findings at both re-inspections. The Committee noted that in terms of the RSEO all work required in terms of the Order was due to be completed within 4 weeks of 29 June

2016. The first re-inspection took place on 15 September 2016. The Landlord had carried out some work but had addressed only one of the 4 requirements in the RSEO, namely the repair to the front door. The further re-inspection took place on 14 November 2016. Again some further work had been carried out addressing one further part of the Order, namely the requirement to fix the leaks from the boiler and radiator. According to Ms Donnachie this repair had been carried out only a few days before the re-inspection and therefore some three and a half months after the expiry of the time limit in the Order. The Committee noted that parts 1 and 4 of the RSEO are still outstanding. The Committee has not been provided with a current gas safety record although Ms Donnachie indicated that an inspection has in fact taken place. With regard to the dampness in the living room and bedroom the Committee noted an improvement in the meter readings but was advised by Ms Donnachie that a contractor had indicated that work was needed, namely the installation of extractor fans. The Committee had previously found Ms Donnachie to be a credible and reliable witness and had no reason not to accept the information provided. It was unchallenged by the Landlord who did not attend the hearing or make written representations regarding the matter. In any event the account of events was consistent with the Committees findings at inspection. The leaks had resolved and there have been hatches installed in the boxing covering the flue extensions which had not previously been there.

14. The Committee therefore concluded that the Landlord has failed to comply with the RSEO. Taking into account the length of time that the repairs have been outstanding and the fact that 2 of the 4 requirements of the RSEO remain outstanding the Committee also concluded that it was appropriate to make a Rent Relief Order in relation to the property.

Decision

15. The Committee accordingly determined that the Landlord had failed to comply with the Repairing Standard Enforcement Order made on date and that the Order should remain in force. The Committee further determined that a Rent Relief Order should be made in terms of Section 27 of the Act.
16. The Committee proceeded to make Rent Relief Order in terms of Section 27.
17. The decision of the Committee was unanimous

Right of Appeal

18. 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

19. 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.

J. BONNAR

Signed... Date 21 November 2016
Josephine Bonnar, Chairperson



Rent Relief Order
Ordered by the Private Rented Housing Committee

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NOTICE TO Mr PAUL REILLY ("the Landlord")

Whereas in terms of their decision dated 21 November 2016, the Private Rented Housing Committee ("the Committee") determined in terms of Section 26(1) of the Housing (Scotland) Act 2006 ("the Act") that the Landlord has failed to comply with the Repairing Standard Enforcement Order in relation to the property 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 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 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 page are executed by Josephine Bonnar, Solicitor, Chairperson of the Private Rented Housing Committee at Motherwell on the 21 day of November 2016 before this witness:-

G. BONNAR

J. BONNAR

Witness

Chairperson

GERARD BONNAR

Name in full

58 PORT DUNDAS ROAD, GLASGOW Address



**Schedule of photographs taken during the inspection of 47 Stanmore Crescent, Lanark
ML11 7DF by the Private Rented Housing Committee on the 14 November 2016.**

Reference Number : PRHP/RP/16/0064



External view - Front elevation of property



Front Porch Door - internal view



Front Porch Door - external view of lower section - gap in draught excluder



Front Porch Door - internal view showing gap in draught excluder



Radiator in Living Room



Bedroom - Boiler in fitted wardrobe



Bedroom - new inspection hatch covers in boxing around flue extension



Bedroom - Damp meter readings - amber at base of rear external and party walls



Living Room - Damp meter readings - amber at base of front external and party walls