



**Repairing Standard Enforcement Order  
Ordered by the Private Rented Housing Committee**

Ref PRHP/RP/16/0077

In respect of an application received on 23 February 2016 and lodged in terms of Section 22(1A) of the Housing (Scotland) Act 2006 ("the Act") by Evelyn Bolton of Lomond and Argyll Advocacy, 155, Glasgow Road, Dumbarton on behalf of Alexander Wood formerly the tenant of 10B Colquhoun Street, Helensburgh G84 8AJ in respect of the Property aftermentioned, against the owner of the Property, Philip Paul Doherty residing at Hillside, Back Road, Clynder, Helensburgh ("the Landlord") per his agent, Lomond Lettings having a registered office at 68 East Clyde Street, Helensburgh, G84 7PG and a place of business at Strathleven House, Vale of Leven Industrial Estate, Dumbarton G82 3PD("the Landlord's Agent").

Re: 10B Colquhoun Street, Helensburgh G84 8AJ and registered in the Land Register for Scotland under Title NumberDMB4400 ("the Property")

Committee Members

Karen Moore (Chairperson)

Mike Links (Surveyor Member)

**NOTICE TO THE LANDLORD**

Philip Paul Doherty residing at Hillside, Back Road, Clynder, Helensburgh

Whereas in terms of their decision dated 25 August 2016, the Private Rented Housing Committee determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 and in particular that the Landlord had failed to ensure that the Property is wind and watertight and otherwise reasonably fit human , the Private Rented Housing

Committee now requires the Landlord to carry out the following works or other such works as are necessary for the purposes of ensuring that the Property meets the Repairing Standard and that any damage caused by carrying out of the works in terms of the Order is made good.

The Landlord must on or before 30 September 2016:-

Instruct a report from a suitably qualified builder or damp specialist to establish the cause of internal dampness in the wall of the living room at the front elevation and thereafter carry out all necessary repairs recommended to include redecoration if required. The report should be exhibited to the Committee

A Landlord or a Tenant aggrieved by the decision of the Private Rented Housing Committee may appeal to the Sheriff by summary application within twenty one 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, 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.

In Witness Whereof these presents printed on this and the preceding pages are subscribed by Karen Moore, Chairperson, at Glasgow on 25 August 2016 before this witness, Norman William Moore, solicitor, 12, Dunnswood House, Dunnswood Rd, Wardpark South, Cumbernauld G67 3EN.

**N Moore** *Witness*

**K Moore**



**Determination by Private Rented Housing Committee**  
**Statement of Decision of the Private Rented Housing Committee issued under**  
**Section 24(1) of the Housing (Scotland) Act 2006**

Ref PRHP/RP/16/0077

In respect of an application received on 23 February 2016 and lodged in terms of Section 22(1A) of the Housing (Scotland) Act 2006 ("the Act") by Evelyn Bolton of Lomond and Argyll Advocacy, 155, Glasgow Road, Dumbarton on behalf of Alexander Wood residing at 10B Colquhoun Street, Helensburgh G84 8AJ in respect of the Property aftermentioned, against the owner of the Property, Philip Paul Doherty residing at Hillside, Back Road, Clynder, Helensburgh ("the Landlord") per his agent, Lomond Lettings having a registered office at 68 East Clyde Street, Helensburgh, G84 7PG and a place of business at Strathleven House, Vale of Leven Industrial Estate, Dumbarton G82 3PD("the Landlord's Agent").

Re 10B Colquhoun Street, Helensburgh G84 8AJ and registered in the Land Register for Scotland under Title Number DMB4400 ("the Property")

Committee Members

Karen Moore (Chairperson)

Mike Links (Surveyor Member)

Background

1. By application received on 23 February 2016 ("the Application"), Ms. Bolton applied to the Private Rented Housing Panel on behalf of Mr. Wood for a determination that the Landlord had failed to comply with the duty imposed on him by Section 14 (1) (b) of the Housing (Scotland) Act 2006 in respect that the Property does not meet the Repairing Standard. The Application listed the failings as :-

- i) No lighting in stairwell;
- ii) Living room socket open and dampness around casement;

- iii) Broken washing machine;
- iv) Shower not working;
- v) 2003 Fire safety Blanket;
- vi) No safety certificate for gas boiler;
- vii) No carbon monoxide detectors and
- viii) Leaking windows.

2. The President of the Private Rented Housing Panel considered that the failings complained of represented a complaint of failure to comply with Sections 13 (1) (a), 13(1) (c), 13(1)(d), 13(1) (f) and 13(1) (g) of the Act.

3. On 20 June 2016, Ms. Bolton intimated to the Private Rented Housing Panel that Mr. Wood had vacated the Property. A Convener of the Private Rented Housing Panel with delegated powers to do so considered the Application and determined to continue to refer the Application to a committee. Accordingly, the President of the Private Rented Housing Panel intimated to the Landlord by Notice of Referral dated 13 July 2016, a decision under Section 23 (1) of the Act to refer the Application to a Private Rented Housing Committee, and, in terms of Schedule 2, Paragraph 1 of the Act fixed an Inspection and Hearing for 17 August 2016 at 10.30 a.m. and 11.30 a.m., respectively.

#### Written Representations

4. The Landlord's Agent submitted a written representation dated 2 August 2016 advising that there is operational stair lighting and enclosing:-

- i) Gas Safety Record dated 8 June 2015 noting non-compliance;
- ii) Gas Safety Record dated 22 June 2016 noting full compliance;
- iii) correspondence instructing an inspection of the washing machine and indicating an issue with access;
- iv) invoice dated 10 December 2015 for repair to leak at WC flush pipe;
- v) receipt for electric shower dated 7 March 2016 and
- vi) invoice for electrical socket works dated 8 February 2016.

5. The Landlord emailed the Committee on 4 August 2016 requesting that the Inspection and Hearing for 17 August 2016 be adjourned as he was unable to attend. The Committee took the view that the matters complained of posed a risk to the health and safety of any occupants and, that as the Landlord was represented by an agent, the Inspection and Hearing should proceed.

Inspection and Hearing.

6. The Inspection took place on 17 August 2016 at 10.30 a.m. at the Property. Mr. Steven Martin of the Landlord's Agent was present at the Inspection.

7. The Committee inspected the matters complained of namely:-

- i) No lighting in stairwell;
- ii) Living room socket open and dampness around casement;
- iii) Broken washing machine;
- iv) Shower not working;
- v) 2003 Fire safety Blanket;
- vi) No safety certificate for gas boiler;
- vii) No carbon monoxide detectors and
- viii) Leaking windows.

8. At the Inspection, the Committee took digital photographs of the Property which photographs form the Schedule annexed and executed as relative hereto.

9. Following the Inspection, a Hearing was held at Victoria Halls, Sinclair Street, Helensburgh on 17 August 2016 at 11.30 a.m. at which neither the Landlord nor the Landlord's Agent was present.

#### Summary of the Issues

10. The issues to be determined by the Committee are whether or not the Property meets the Repairing Standard in respect of Sections 13 (1) (a), 13(1) (c), 13(1)(d) and 13(1) (g) of the Act at the date of the Inspection and Hearing. Although the Minute of Continuation referred to in paragraph 3 hereof mentions a complaint under Section 13(1) (f), the Committee noted that, in fact, no complaint had been raised in respect of Section 13(1) (f). This is dealt with further under paragraph 14 hereof.

#### Findings of Fact

11. The Landlord is the owner of the Property. Mr. Wood had been a tenant of the Property by virtue of a Short Assured Tenancy Agreement which has since ended. In any event, the Committee is satisfied that it has jurisdiction.

12. The Property is a top or second floor flat in a mixed retail and residential tenement building and is circa 100 years old.

13. From the Inspection, the Committee found the following:

- i) There are two lights in the stairwell which are activated by a passive infra red sensor. At the time of the Inspection, it was not sufficiently dark to test the sensor. However, the Landlord's Agent confirmed that it is in working order;
- ii) The living room power socket has been made safe with a blank cover plate. However, there is dampness on the wall below the single window adjacent to the aforementioned socket;
- iii) The washing machine appears to be in working order and was Portable Appliance Tested in February 2016 ;
- iv) It appears that a new Triton shower has been installed. The shower was tested and was found to be working;
- v) There is Fire Safety Blanket in the kitchen area. This is not a requirement of the Repairing Standard;
- vi) A Gas Safety Record dated 22 June 2016 was submitted by the Landlord's Agent;
- vii) There is a hard wired carbon monoxide detector in the kitchen area and
- viii) The windows appear to seal properly and do not appear to be leaking.

14. At the Inspection the Committee noted that there is no smoke detection and alarm equipment in the living room area of the Property. The Landlord's Agent advised the Committee that, having taken legal advice, none is required because the living and kitchen areas together comprise a "studio". However, the Committee, in its professional opinion, consider that, as the living area is sufficiently distinct from the kitchen area, it merits the installation of smoke detection and alarm equipment in accordance with the British Standard on the design of fire detection installations for dwellings (BS5839 Part 6) and the Scottish Government's Technical Handbook 2013 Domestic Handbook. Mr. Wood did not complain of this matter in the Application and so the Committee are not able to make an Order in this respect. However, the Committee recommend that smoke detection and alarm equipment should be provided in the living room area to ensure full compliance with the Repairing Standard.

#### Decision of the Committee

15. The Committee's decision is based on the Application with supporting documents, the written representations and the Inspection.

16. In respect of Section 13 (1) (a) of the Act, the Committee found that at the date of the Hearing the Landlord has failed to comply with the duty imposed by Section 14 (1) (b) of the Act, the reason being that the Property is not wind and watertight and otherwise reasonably fit human habitation by virtue of the dampness below the windows at the living room wall.

17. In respect of Section 13(1) (c) of the Act, the Committee found that at the date of the Hearing the Landlord has not failed to comply with the duty imposed by Section 14 (1) (b) of the Act, the reason being that the installations in the Property for the supply of water, gas and electricity and for sanitation, space heating and heating water appear to be in a reasonable state of repair and in proper working order.

18. In respect of Section 13 (1) (d) of the Act, the Committee found that at the date of the Hearing the Landlord has not failed to comply with the duty imposed by Section 14 (1) (b) of the Act, the reason being that the fixtures, fittings and appliances provided by the Landlord under the tenancy appear to be in a reasonable state of repair and in proper working order.

19. In respect of Section 13(1) (g) of the Act, the Committee found that at the date of the Hearing the Landlord has not failed to comply with the duty imposed by Section 14 (1) (b) of the Act, the reason being that the Property has satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health.

20. The Committee proceeded to make a Repairing Standard Enforcement Order in respect of Section 13 (1) (a) of the Act as required by Section 24 (1) of the Act.

21. The decision was unanimous.

#### Right of Appeal

22. 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.

23. Where such an appeal is made, the effect of the decision and of any repairing standards enforcement 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 any repairing standards enforcement order will be treated as having effect from the day on which the appeal is abandoned or so determined.

Signed

**K Moore**

Karen Moore, Chairperson      Date      25 August 2016

25/8/2016

This is the schedule referred to in the foregoing decision,

K Moore

redictor, Glasgow

## SCHEDULE OF PHOTOGRAPHS

10 B COLQUHOUN STREET HELENSBURGH G84 8AJ

CASE REF: PRHP/RP/16/0077 17<sup>TH</sup> AUGUST 2016



FRONT ELEVATION



WASHING MACHINE



LIGHT AND PIR SENSOR-TOP FLOOR





**BLANKED OFF SOCKET—LR**



**NEW ELECTRIC SHOWER**



**HEAT DETECTOR-KITCHEN**



**SMOKE DETECTOR – HALL**



**HIGH DAMP READINGS BELOW THE SINGLE WINDOW IN LIVING ROOM**