



**Statement of Decision of the Private Rented Housing Committee
Under Section 24(1) of the Housing
(Scotland) Act 2006**

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PRHP Ref: PRHP/G44/59/10

Re:- Property at Flat Ground/Right, 21 Kings Park Road, Glasgow, G44 4TT
("the property")

Land Register Title No. GLA33040

The Parties:-

Alastair McKee residing at Flat Ground/Right, 21 Kings Park Road, Glasgow,
G44 4TT ("the tenant")

and

Caitriona MacLeod, residing at 3 Seagate, Prestwick, KA9 1AY and Seumas
MacLeod residing at 420 Clarkston Road, Muirend, Glasgow
("the landlords")

The Committee comprised:-

Mr James Bauld	- Chairperson
Mr George Campbell	- Surveyor member
Mr Christopher Harvey	- Housing member

Background

1. On 6th July 2010, the Committee issued a Determination which decided that the landlords had failed to comply with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 ("the 2006 Act"). On the same date, the Committee issued a Repairing Standard Enforcement Order ("RSEO") in respect of the property.
2. The RSEO made by the Committee required the landlords to carry out such works as were necessary to:-
 - Restore the cistern within the bathroom to proper working order
 - To install a working smoke alarm within the property in accordance with current standards
 - To carry out repairs to the lower walls and floors in the bathroom and hall to eradicate dampness
 - To make all windows wind and water tight
 - To carry out repairs to the oven to restore it to proper working order
 - To carry out repairs to the extractor fan within the kitchen to restore it to proper working order
 - To carry out repairs to the kitchen sink to allow it to drain freely and to prevent it from blocking
3. The Committee ordered that the works specified in the RSEO were to be carried out and completed within 3 months of the date of the Order with the exception of the works required to install the working smoke alarm which required to be carried out within 28 days of the Order. The RSEO was effectively served on the landlords.
4. On 19th October 2010 the Committee carried out a further inspection of the property for the purpose of ascertaining whether the repairs required by the RSEO had been completed.
5. During the inspection of the property, the tenant was present but the landlords were neither present nor represented. The Committee inspected the various repairs which had been ordered. The Committee noted that the repairs to the oven and extractor fan had been completed and the tenant agreed that these works had been done. The Committee also noted that the works required to repair the cistern had been completed.
6. During the course of the inspection of the property, the Committee noted that there still appeared to be substantial problems with dampness to the lower walls and floors in the bathroom and hall and that no repairs appeared to have

been done to any of the windows within the property. The Committee also noted that the kitchen sink still appeared to be not draining fully. The tenant stated that the sink had been unblocked three times, but it was still not draining. He no longer used the sink and was obliged to use the bathroom instead

7. During the inspection of the property, the Committee noted that 2 battery operated smoke alarms had been installed, one in the living room of the property, the other in the bedroom of the property.
8. A reconvened hearing of the Committee then took place within the PRHP offices in Glasgow. That date had been notified to the parties in advance to allow them to make representations to the Committee either in writing or at the hearing. The purpose of the hearing was to decide whether the landlords had complied with the RSEO made by the Committee in terms of Section 26(1) of the Act.
9. The tenant did not attend the hearing. Ms Catriona MacLeod, one of the landlords, did attend the hearing.
10. At the hearing the landlord advised that she was not certain of the works which had been carried out. She indicated to the Committee that her co-landlord, her brother, generally took to do with the management of the tenancy. It was agreed that the necessary works had been carried out to the cistern, the oven and the extractor fan.
11. Ms MacLeod was questioned with regard to the smoke alarms which appeared to have been installed within the property. She had no personal knowledge and indicated that so far as she was aware she understood that they may be battery operated.
12. Ms MacLeod was then questioned with regard to the works required to eradicate the dampness within the lower walls and floors in the bathroom and hall. She indicated that she believed the problem had been solved because the cistern had now been repaired and that this had been the cause of the dampness. She indicated she believed that the dampness would now simply dry out. She was asked whether any floor boards had been lifted or replaced and she indicated that as far as she was aware that had not been done.
13. Ms MacLeod was questioned with regard to the sink and indicated that to her knowledge the sink had been cleared on three occasions and that it was her brother who had attended to do that. She did not know the dates when these works had been done nor could she produce any other evidence of the works having been carried out.
14. Ms MacLeod was then questioned with regard to the windows within the property and she accepted that no work had been done to these at all since the granting of the Order. She indicated that she had a quote to replace the windows from a company called Eurotrade who were based in Ayrshire. She indicated her preference would be to replace the windows with new PVC

windows. The estimated cost of replacing the windows was £2200. She indicated this had not been done because she did not have any money to do so. She claimed that she had received no payments of rent since December 2009.

15. The landlord then agreed that the monthly contractual rent for the property was £400 per month but that the landlords had been accepting reduced payments from the tenant until December 2009. The landlords had been accepting £345 per month as rent as this was the figure paid by Housing Benefit.

Determination and Reasons

16. The Committee considered the evidence and the representations which had been made. The Committee also took into account the evidence of the re-inspection which they had carried out. The Committee decided that in terms of Section 26 (1) of the Act that the landlords had failed to comply with the full terms of the RSEO.
17. The Committee accepted that the repairs required to the cistern, extractor fan and oven had all been fully and properly completed.
18. The Committee took the view that the works required to eradicate dampness in the lower walls and floors in the bathroom and hall, to make all of the windows wind and water tight and to repair the kitchen sink to allow it to drain freely and to prevent it from blocking had not been carried out.
19. The Committee also took the view that the landlords had failed to comply with the part of the RSEO which required a working smoke alarm to be installed within the property in accordance with current standards. The Committee took the view that the battery operated smoke alarms which had been installed did not comply with the current standards. The current standards would have required the smoke alarm to be hard wired.
20. The Committee did not accept the landlord's assertion that by carrying out works to the cistern within the bathroom that the dampness within the walls and floor in the bathroom and hall would simply remedy itself. The Committee took the view that substantial works were required to be carried out in this regard. The Committee did not accept the landlord's assertion that she could not afford to carry out repairs to the windows or to replace the windows as sufficient excuse for failure to comply with the terms of the RSEO.
21. The Committee then considered whether a Rent Relief Order should be made in terms of Section 27 of the Act. The Committee determined that in all the circumstances of this case such an Order should be made given the landlords' failure to comply fully with the terms of the RSEO and given the landlords' failure to provide any reasonable excuse for this failure.
22. The Committee then considered the amount by which any rent payable under the tenancy in question should be reduced. In doing so, the Committee

considered the impact of the outstanding repairs upon the tenant's enjoyment of the property. In all the circumstances the Committee determined that an appropriate reduction in rent would be 75% of the contractual monthly rent namely a reduction in rent of £300 per month. The Committee considered that the Rent Relief Order should be effective from 28 days after the last date on which the decision to make the rent Relief Order may be appealed under Section 64 of the 2006 Act.

Decision

23. The Committee, having made such enquiries as it saw fit for the purposes of determining whether the landlords had complied with the RSEO in relation to the property concerned and taking full account of all the evidence obtained at the inspection and at the hearing determined that the landlords had failed to comply with the RSEO in terms of Section 26 (1) of the Housing (Scotland) Act 2006 and that notice of failure be served upon the local authority in which the property is situated.
24. The Committee proceeded to make a Rent Relief Order in terms of Section 27 of the Act which Order shall 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.
25. The decision of the Committee was unanimous.

Rights of Appeal

26. A landlord or tenant aggrieved by the decision of the Committee may appeal to the Sheriff by Summary Application within 21 days of being notified of that decision
27. The appropriate respondent in such appeal proceedings is the other Party to the proceedings and not the PRHP or the Committee which made the decision

Effect of Section 63

28. Where such an appeal is made, the effect of the decision and of any Order made in consequence of it is suspended until the appeal is abandoned or finally determined.

29. Where the appeal is abandoned or finally determined by confirming the decision, the decision and the Order made in consequence of it are to be treated as having effect from the day on which the appeal is abandoned or so determined.

J Bauld

Signed.....

Chairperson

Date *2 November 2010*

G Williams

Signature of Witness...

Date *2/11/10*

Name: Gillian Williams

Address: 7 West George Street, Glasgow, G2 1BA

Designation: Senior Court Administrator



Rent Relief Order

Ordered by the Private Rented Housing Committee

Property at Flat Ground/Right, 21 Kings Park Road, Glasgow, G44 4TT ("the property")

The Parties:-

Alastair McKee residing at Flat Ground/Right, 21 Kings Park Road, Glasgow, G44 4TT ("the tenant")

And

Caitriona MacLeod, residing at 3 Seagate, Prestwick, KA9 1AY and Seumas MacLeod residing at 420 Clarkston Road, Muirend, Glasgow ("the landlords")

NOTICE TO Caitriona MacLeod, residing at 3 Seagate, Prestwick, KA9 1AY and Seumas MacLeod residing at 420 Clarkston Road, Muirend, Glasgow

In terms of their decision dated 2 November 2010, 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 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 £300 per calendar month 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.

J Bauld

James Bauld, Chairperson
Private Rented Housing Committee

Date 2 November 2010

G Williams

..... (Sign)
Witness

Date 2/11/10

Name: Gillian Williams
Address: 7 West George Street, Glasgow, G2 1BA
Designation: Senior Court Administrator