



**PRIVATE RENTED HOUSING PANEL**

**REPAIRING STANDARD ENFORCEMENT ORDER**

**THE PROPERTY**

**3b Langside Road, Bothwell, Glasgow G71 8NG registered in the Land Register for Scotland under title number LAN7652**

**THE PARTIES**

**Angela Marie McAdams and Christopher Thomas, formerly residing at the property (applicant)**

**Note: The Tenancy under which the application was made, having been lawfully terminated, and the President having determined to continue with the determination of the application in terms of Minute of Continuation dated 17 August 2015 under Schedule 2 Paragraph 7(3) of the Act there was no Tenant**

**and**

**LS Residential Ltd, incorporated under the Companies Acts and having their Registered Office at 8 Elmbank Gardens, Glasgow G2 4NQ, per Countrywide and SSH Lettings, Scotland Property Management Centre, 2<sup>nd</sup> floor, 26 Springfield Court, Glasgow G1 3DQ (landlord)**

**PRHP Ref: RP/15/0199**

**8 October 2015**

**Committee Members – David Preston (Chairperson); George Campbell (Surveyor Member); Elaine Munroe (Housing Member)**

**REPAIRING STANDARD ENFORCEMENT ORDER ('RSEO') AGAINST THE LANDLORD**

1. **WHEREAS** in terms of their decision dated 8 October 2015 the Private Rented Housing Committee ('the Committee') determined that the landlord had failed to comply with the duty imposed by section 14(1)(b) of the Housing (Scotland) Act 2006 ('the Act') and in particular the property failed to meet the repairing standard as set out in section 13(1) of the Act.
2. The Committee now requires the Landlord to carry out such work as is required to ensure the property meets the Repairing Standard and that any damage caused as a consequence of carrying out of any works in terms of this Order is also made good before the expiry of the Completion Date.

### **THE ORDER**

3. In particular, and without prejudice to the foregoing generality, the Committee **HEREBY ORDERS** the Landlord to carry out the following repairs ('the Works');-
  - a) To commission a suitably competent person to provide access to the solum area in the living room and the bedroom of the property to enable an inspection to be carried out by the surveyor member along with Environmental Services and to obtain a report from Environmental Services that the property is fit for habitation.
4. The Committee **HEREBY FURTHER ORDERS** that the Works specified in this Order must be carried out within **ONE MONTH** from the date of service of this Order.

### **RIGHT OF APPEAL**

5. A landlord or tenant has the right to appeal this decision to the Sheriff by summary application within 21 days of being notified of that decision.

**EFFECT OF APPEAL**

6. In terms of section 63 of the Act, where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by confirming the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined: IN WITNESS WHEREOF these presents consisting of this and the two preceding pages are subscribed as follows:

**D. Preston** .....Chairman

**N. Preston** .....fitness

12-10-15 .....Date of Signing

Mr. Preston .....Name

24 Downing St. .....Address

OBAN .....Place of Signing

Glasgow .....

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**PRIVATE RENTED HOUSING COMMITTEE**

**DETERMINATION AND STATEMENT OF REASONS UNDER SECTION 24 AND  
PARAGRAPH 6(2)(B) OF SCHEDULE 2 OF THE HOUSING (SCOTLAND) ACT 2006**

**THE PROPERTY**

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Registered Office at 8 Elmbank Gardens, Glasgow G2 4NQ, per Countrywide and  
SSH Lettings, Scotland Property Management Centre, 2<sup>nd</sup> floor, 26 Springfield  
Court, Glasgow G1 3DQ (landlord)**

**PRHP Ref: RP/15/0199**

**12 October 2015**

**Committee Members: – David M Preston (Convener); George Campbell (Surveyor  
Member); and Elaine Munroe (Housing Member).**

## **Decision**

**The Committee, having made such enquiries as are fit for the purposes of determining whether the landlord had complied with the duty imposed by section 14 (1) (b) of the Housing (Scotland) Act 2006 (hereinafter referred to as "the Act") in relation to the property, and taking account of the representations by the landlord, determined that the landlord had failed to comply with that duty and that the Property accordingly failed to meet the repairing standard as defined in section 13 of the Act.**

## **Background**

1. By application dated 5 July 2015, the applicant sought a determination of whether the landlord had failed to comply with the duties imposed on him by section 14 (1) (b) of the Act.
2. The applicant complained that the landlord had failed to meet the Repairing Standard in respect that the structure and exterior of the house (including drains, gutters and external pipes) were in a reasonable state of repair and in proper working order.
3. In particular the applicant complained that there had been a burst sewage pipe which spread under the property, mainly the bedroom area. It was believed that this had happened sometime before the applicants have moved in. It was reported that the pipe had been fixed by Scottish Water but the applicants believed that any damage under the property had not been attended to. Environmental Services had been contacted who recommended that floorboards should be uplifted to assess damage and allow access for any contamination to be cleaned up. The applicants complained of a lingering smell in the property.
4. Following receipt of an email dated 10 August 2015 in which the applicants advised that they had vacated the property on 7 August 2015, the President considered the application and issued a Minute of Continuation under Schedule 2, Paragraph 7 (2) of the Act. A Notice of Referral, Inspection and Hearing was sent to the landlords and their agents on 21 August 2015 appointing an inspection on 7 October 2015 at 1015 with a hearing thereafter at 1300.
5. The landlord's agents had submitted written representations in the form of a letter dated 27 July 2015.

On the day following the inspection and hearing, the landlord's agents submitted additional evidence to the Committee in the form of three invoices from Rapid Response Property Maintenance Ltd dated 23 April, 10 June and 23 July all 2015. By the time these invoices were produced the Committee had reached a view and was at the point of issuing its determination. On receipt of the invoices the

Committee reconsidered its determination, which it was not bound to do.

### **Inspection**

6. The Committee inspected the property on the morning of 7 October 2015 and thereafter held a hearing in Bothwell Bridge Hotel, 89 Main Street, Bothwell, Glasgow G71 8EU. Mr Chris Turner, a representative of the landlord's agents attended the inspection to provide access to the Committee.
7. The inspection revealed that the property was ground floor flat in a sandstone property in Langside Road. Accommodation comprised: living room with scullery kitchen; bedroom and bathroom.
8. The Committee noted a lingering smell in the property, particularly in the living room but also in the bedroom. The Committee also noted that there appeared to be remnants of a drain clearing operation to the rear of the property.

### **Hearing**

9. Mr Turner was in attendance throughout the hearing on behalf of the landlords.
10. In addition to the application form the Committee considered the submissions and copy correspondence from the applicants as well as the letter from the landlord's agents dated 27 July 2015.
11. Mr Turner was unable to be of any substantive assistance to the Committee. He explained that he had been asked to attend on behalf of his manager and had been told that any problem in the property had been resolved. He had no further information to provide.
12. The Committee was extremely unhappy that the information which was clearly available to the landlord's agents at the time of the hearing was not provided to Mr Turner to enable him to apprise the Committee of the work carried out and steps taken by the landlord in regard to the situation. Landlords have a statutory duty to ensure that private rented property meets the repairing standard at all times throughout the period of lease. In the event that a tenant makes an application to PRHP for a determination as to whether the landlord has failed in that duty however unfounded a landlord may regard the applicant's allegations PRHP is required by statute to make a determination on such a failure. It is incumbent on landlords to cooperate with PRHP and provide it with such information and evidence as is available to it, in accordance with PRHP rules, regulations and directions

### **Decision**

13. The Committee considered the representations of the landlords submitted on their behalf by their agents.

14. In view of the unpleasant odour which had been detected by the Committee within the property, notwithstanding the landlord's representations that "... the lingering smell will subside in due course...", the Committee determined that further investigation would be required along with a report from Environmental Services that there was no continuing problem with sewage material within the solum of the building.
15. Accordingly the Committee determined to issue a Repairing Standard Enforcement Order to require that the landlords provide access to the solum area to allow an inspection to be carried out by the surveyor member and by Environmental Services and to obtain a report from Environmental Services that the property is fit for habitation.
16. The Committee determined that a period of one month should be a reasonable time within which such an inspection and report could be carried out.

### **Subsequent Consideration**

17. Following receipt of the invoices of April, June and July 2015 the Committee reconsidered the situation (which it was not bound to do). The Committee noted the description of the works carried out by Rapid Response Property Maintenance Ltd. In particular the invoices dated 10 June 2015 noted that they had: excavated the area in the close; removed excrement sitting in pipework; exposed affected drain; removed section of collapsed drain; installed new section drain; supported new section of drain with infill of pea gravel; backfilled and reinstated excavated area. The Committee was accordingly satisfied that the applicant's complaint arising from the smell of excrement was well-founded. The invoice dated 23 July 2015 indicated that carpets and floorboards had been lifted to investigate the possible sewage issue.
18. The invoice included no indication as to the results of their investigations. As narrated above during the inspection the Committee detected a foul smell in the property which was over 2 months after Rapid Response had carried out its investigation. Accordingly the Committee decided that the investigation had been inadequate since there was clearly a continuing issue.

The Committee saw no reason to alter its original decision as it is clear that there is still an issue with a foul smell in the property which must be investigated properly and the root cause thereof to be removed.

### **Right of Appeal**

A landlord or tenant has the right to appeal this decision to the Sheriff by summary application within 21 days of being notified of that decision.

**Effect of Appeal**

In terms of section 63 of the Act, where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by confirming the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined

Chairperson **D. Preston**  
Private Representative .....

*12-10-15*  
Date