



## Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

prhp Ref: PRHP/RP/15/0200

Re : Property at 28 Easterton Avenue, Busby, Glasgow, G76 8JJ ("the Property")

Title No: LAN35668

The Parties:-

Miss Karen Laverty residing at 28 Easterton Avenue, Busby, Glasgow, G76 8JJ ("the Tenant")

Ms Karin Miller residing at 26 Quantock Close, Warmley, Bristol, BS30 8UR ("the Landlord")

### NOTICE TO Karin Miller ("the Landlord")

Whereas in terms of their decision dated 24 September 2015, the Private Rented Housing Committee determined that the landlord has failed to comply with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 and in particular that the landlord has failed to ensure that:-

- (a) Any fixtures, fittings and appliances provided by the Landlords under the tenancy are in a reasonable state of repair and in proper working order;

the Private Rented Housing Committee now requires the landlord to carry out such work as is necessary for the purposes of ensuring that the house concerned meets the repairing standard and that any damage caused by the carrying out of any work in terms of this Order is made good.

In particular the Private Rented Housing Committee requires the landlord:-

- (a) to carry out such works to the bath and tiling at the Property to ensure that no significant egress of water from the bath/shower to the surrounding area occurs.

The Private Rented Housing Committee order that the works specified in this Order must be carried out and completed within the period of 28 days from the date of service of this Notice.

**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, 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 type written on this and the preceding page are executed by Ewan Kenneth Miller, Solicitor, Whitehall House, 33 Yeaman Shore, Dundee, DD1 4BJ, Chairperson of the Private Rented Housing Committee at Dundee on 24 September 2015 before this witness:-

**L. Johnston** \_\_\_\_\_ witness

**E. Miller** Chairman

Lindsay Johnston  
Secretary  
Thorntons Law LLP  
Whitehall House  
33 Yeaman Shore  
Dundee  
DD1 4BJ



## Statement of decision of the Private Rented Housing Committee under Section 24 (1) of the Housing (Scotland) Act 2006

prhp Ref: PRHP/RP/15/0200

Re : Property at 28 Easterton Avenue, Busby, Glasgow, G76 8JJ ("the Property")

### The Parties:-

Miss Karen Laverty residing at 28 Easterton Avenue, Busby, Glasgow, G76 8JJ ("the Tenant")

Ms Karin Miller residing at 26 Quantock Close, Warmley, Bristol, BS30 8UR ("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 duty imposed by Section 14 (1)(b) in relation to the house concerned, and taking account of the evidence led by both parties, determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

### Background

1. By application dated 7 July 2015 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 her duty to ensure that the house meets the repairing standard and in particular that the Landlord had failed to ensure that:-
  - (a) The Property is wind and watertight and in all other respects reasonably fit for human habitation;
  - (b) Any fixtures, fittings and appliances provided by the Landlords under the tenancy are in a reasonable state of repair and in proper working order;
3. By letter dated 10 August 2015 the President of the Private Rented Housing Panel intimated a decision to refer the application under Section 22 (1) of the Act to a Private Rented Housing Committee.
4. 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.
5. Following service of the Notice of Referral the Tenant made no further material representations to the Committee other than her original application. The Landlord made written representations by way of letter dated 28 August 2015 to the Committee.
6. The Private Rented Housing Committee (comprising Mr E K Miller, Chairman and Legal Member, Ms C Jones, Surveyor Member) inspected the Property on the morning of 17 September 2015. The Landlord was present. The Tenant was not present but her father gave access to the Committee and was present throughout the inspection.

7. Following the inspection of the Property the Private Rented Housing Committee held a hearing at 134-136 Wellington Street, Glasgow. The Landlord was present and represented herself. The Tenant was neither present nor represented.
8. The Tenant had submitted, via her application the terms of which the Committee noted, that there were a number of issues within the Property. She submitted that there was water leaking from the bath and the tiles were damaged, it was damp above the front bedroom window and in the front bedroom cupboard. That there was a hole in the kitchen ceiling and exposed pipework at the boiler. She submitted that the back door was not properly wind and water tight and nor was the front door. She also complained of damp underneath the front living room window and that the window was draughty. In her written submission received on 19 August, the tenant further stated that while the original leak in the bathroom had been repaired there remained a problem with some new tiling.
9. The Landlord submitted that she felt that the property did meet the repairing standards. She had carried out numerous repairs and has spent a significant amount of money on the property. She accepted that there was a responsibility on her and that if the Committee felt that works were required then she would attend to these to comply with her legal obligations.

#### **Summary of the issues**

10. The issues to be determined were:-
  - (a) Whether there was an issue with water spilling from the bath and the tiling around it.
  - (b) Whether there was damp in the front bedroom and cupboard.
  - (c) Whether the boiler and the pipework around it met the repairing standard.
  - (d) Whether the back door was in proper working order and met the repairing standard.
  - (e) Whether the front door was in proper working order and met the repairing standard.
  - (f) Whether there was damp on the wall along the front living room window.
  - (g) Whether the front living room window was in proper working order and properly wind and water tight.

#### **Findings of fact**

11. The Committee found the following facts to be established:-
  - (a) The Committee found that it appeared that there was water spilling from the bath due to the manner in which new tiling had been overlaid on original tiling.
  - (b) There was no damp in the front bedroom window or cupboard.
  - (c) The boiler at the property was in proper working order and the boxwork around the pipework was acceptable.
  - (d) The backdoor was properly wind and watertight and met the repairing standard.
  - (e) The front door was properly wind and watertight and met the repairing standard.
  - (f) There was no damp under the front living room window.

- (g) The front living room window was in proper working order and met the repairing standard.

#### **Reasons for the decision**

12. The Committee based its decision primarily on the evidence obtained during the course of its own inspection.

The property comprises a former local authority two storey mid terraced house located in Clarkston around 7 miles south east of Glasgow city centre. It was built in the 1950's and is of traditional brick/roughcast construction with a pitched tiled roof. The accommodation comprises a hall, living room and kitchen on the ground floor and 2 bedrooms and a bathroom on the upper floor. The property has double glazed windows, a gas central heating system, gardens to front and rear and a pend access to one side.

The Committee first inspected the bathroom. As part of a repair to rectify the leak at the bath the Landlord had installed additional tiling above the bath. This had been overlaid on the existing tiles. This created a lip between the two layers of tiles. It appeared likely to the Committee that the Tenant's allegation that water was spilling out of the bath was probable and that the water would run along the lip down onto the edge of the bath and out onto the floor. There was some evidence of water staining on the floor. On balance the Committee was satisfied that further works to rectify this would be required.

The Committee inspected the front bedroom. The Committee took various damp meter readings throughout and no sign of water penetration or damp was present. The walls had been redecorated since the complaint regarding mould and a vent installed to the ceiling in the cupboard. It appeared to the Committee that it was likely that any such mould was a result of condensation rather than any fundamental issue with the property.

The Committee inspected the boiler. A new boiler had been installed. The Committee was satisfied that this met the repairing standard. The boxing around some of the pipework was of poor quality and there was a small area of redecoration that would benefit from occurring. However these were minor matters and did not breach the repairing standard.

The Committee inspected the back door. This was a new door that had been installed. It appeared to be in proper working order and was a modern PVC design. The tenant's father confirmed that as far as he was aware it was working satisfactorily. Accordingly the back door no longer appeared to be a live issue.

The Committee inspected the front door at the property. This was an older style PVC door. Whilst it was a little dated there was no evidence of any draughts and it opened and closed satisfactorily. Accordingly, the Committee was satisfied that this met the repairing standard also.

The Committee inspected the wall under the front living room window. Again, no damp penetration could be detected by use of a moisture meter. Again, the area had been redecorated. Again, the Committee was satisfied that in all likelihood any mould spotting had been a result of condensation rather than any defect within the Property.

The Committee inspected the living room window. The Committee could see no evidence of a draught and the window appeared to be in reasonable condition and in proper working order.

The Committee considered that the only item to be attended to was in relation to the bathroom at the property to prevent any water escaping onto the floor. The Committee considered that this was a relatively minor matter to rectify and accordingly the Landlord would only require 28 days to attend to this.

The Committee highlighted to the Landlord that she will require to organise tradesmen to attend to this and for them to attend upon reasonable notice and at a reasonable time. The Committee would highlight to the Tenant that provided reasonable notice is given and that workmen are attending at a reasonable time then they fully expect her to facilitate access for the Landlord's tradesmen.

A schedule of photographs from the Property are annexed to this Decision for information.

#### **Decision**

13. The Committee accordingly determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.
14. The Committee proceeded to make a Repairing Standard Enforcement Order as required by section 24(1).

#### **Right of Appeal**

15. 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.

#### **17. Effect of section 63**

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.

Signed **E. Miller**  
Chairper.....

.. Date..... 26/9/15 .....