



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

PRHP Ref: PRHP/RP/15/0260

Property at: 5B Keir Avenue, Raploch, Stirling, FK8 1QL

Title No: STG25149

The Parties

Miss Debbie Goodbrand, residing at 5B Keir Avenue, Raploch, Stirling, FK8 1QL
("the tenant")

and

Mr Athar Almass Firdous, residing at 32 Alpin Drive, Dunblane, FK15 0FQ ("the
landlord")

Decision

The Committee, having made such enquiries as it sought fit for the purposes of determining whether the landlord has complied with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 in relation to the property concerned and taking account of all of the evidence available to the Committee, determined that the landlord has failed to comply with the duty imposed by Section 14(1)(b) of the 2006 Act.

Background

- 1 By application dated 22 September 2015, the tenant applied to the Private Rented Housing Panel to determine whether or not the landlord had failed to comply with the duties imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 ("the 2006 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 and, in particular that the landlord had failed to ensure that:
 - (a) The house is wind and watertight and in all other respects reasonably fit for human habitation, in terms of Section 13(1)(a) of the 2006 Act;
 - (b) The installations in the house for the supply of water, gas and electricity and for sanitation, space heating and heating water are in a reasonable state of repair and in proper working order, in terms of Section 13(1)(c) of the 2006 Act;

(c) The fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order, in terms of Section 13(1)(d) of the 2006 Act;

(d) The house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire, in terms of Section 13(1)(f) of the 2006 Act.

3 By interlocutor dated 29 October 2015, the President of the Private Rented Housing Panel intimated a decision to refer the application under Section 23(1) of the 2006 Act to a Private Rented Housing Committee. The Committee was made up of:

Paul Doyle	Chairperson
Andrew Taylor	Surveyor Member

4 The Private Rented Housing Panel served notice of referral under and in terms of Schedule 2 Paragraph 1 of the 2006 Act on the landlord and the tenant on 6 November 2015. Following service of referral, neither party made any further written representations to the Private Rented Housing Panel.

5 The Committee inspected the property at 10am on 14 December 2015. The landlord was neither present nor represented. The tenant was present with her partner, James Tevan, and her representative, Ms L McGregor.

6 Following inspection of the property, the Private Rented Housing Committee held a hearing at 10.30am at Jubilee House, Forthside Way, Stirling. The hearing was brief and informal because only the tenant, her partner and the tenant's representative landlord were present (the landlord was neither present nor represented) and the inspection at 10am that morning had resolved almost all of the issues.

7 The tenant's position is that the house is no provision to smoke or heat detection. The living room window has had a hole in it since that date the tenant moved into the property; that there has been water damage to the property leaving holes in the ceiling in the kitchen and in the bedroom; that the rear door to the property does not have a functioning lock & regularly blows open; that the gas central heating boiler has not been serviced since before the tenant took entry in February 2014; that there are defects in the electrical installation which has not been inspected since before the tenant took entry in February 2014; that the bath is not secure and the shower in the bathroom has never worked; that the laminate flooring in the hallway is damaged and defective; and that the property suffers from water ingress.

8 The landlord has chosen not to disclose what his position is. The landlord has not engaged with the private rented housing panel ("PRHP") process.

Summary of Issues

9 The issues to be determined are whether or not the house complies with the repairing standard set out at Sections 13 and 14 of the 2006 Act.

Findings in Fact

10 (a) The landlord is the heritable proprietor of the property which is the subject matter of this application. He let the property to the tenant on 15 February 2014.

(b) The property is a ground floor flatted dwelling-house forming part of one of four in a block of dwelling-houses, with gardens to the front and rear. The front door opens onto an entrance vestibule providing access to a central hallway, which in turn provides access to each of the rooms in this property. The property has three bedrooms, a bathroom, a living room and a kitchen. The property benefits from gas fired central heating and double glazing throughout. The front entry door is situated to the side of the larger block of which this property forms part. There is also an external door from the kitchen, situated at the rear of the property, providing access to the garden ground to the rear.

(c) The external kitchen door does not have a functioning latch or lock, and opens freely on the slightest hand pressure. Behind the fridge freezer, at skirting board level, there is a double electrical socket so damaged that it hangs from the wall. Damp meter readings around the interior ingo of the external door in the kitchen give higher than normal damp meter readings. There is a small, but noticeable, hole in the ceiling caused by water leakage from the property above some time ago.

(d) On an internal wall in the kitchen, there is a Vokera gas central heating boiler. The boiler has not been serviced since the tenant moved into the property in February 2014. There is a central heating radiator in the kitchen. It has fallen away from the wall fixings and now hangs loosely, away from the wall.

(e) The guttering on the external wall above the side of the property has been repaired or replaced so that water no longer seeps into the living room.

(f) The external pane of the double glazed window in the living room has a small, pebble shaped, hole. The hole in the external pain has been there since February 2014 and compromises the double glazed window unit. On the window sill (in the living room) there is evidence of significant water penetration.

(g) The bathroom has a white, three-piece, sanitary suite together with a separate shower unit. The shower is an electrical power shower with an isolation switch on the hall wall immediately adjacent to the shower. The isolation switch does not work. There is no flow of water to the shower. The bath is insecure on its mountings and the seal around the bath is no longer intact. The sink in the bathroom is not blocked and drains freely. The WC cistern constantly drips water and causes the overflow to run incessantly.

(h) In the bedroom situated to the front of the property, a large section of the ceiling is missing. The fabric of the ceiling had been damaged and has peeled back to the

gyproc panels. The strapping forming the foundation of the ceiling finish is clearly visible.

(i) The central hallway has laminate flooring. The laminate flooring is loose. There are gaps in the flooring and sections of flooring slide from side to side.

(j) The electricity consumer unit is on the wall in the entrance vestibule. The consumer has not been inspected since before February 2014.

(k) This property has neither smoke detectors, heat detectors, nor carbon monoxide detectors. On the ceiling in the hallway there is the base unit of an old battery operated smoke detector, which does not even have a battery in it.

(l) The surveyor member of the committee took photographs of the property throughout the inspection. Those photographs are now reproduced in the schedule annexed hereto. The schedule of photographs is referred to for its terms and adopted as part of the committee's findings in fact.

(m) The property fails to meet the repairing standard in to the sections 13(1)(a), 13(1)(c), 13(1)(d), & 13(1)(f) of the Housing (Scotland) Act 2006. A repairing standard enforcement order is necessary.

Reasons for Decision

11 (a) Committee members inspected this property at 10am on 14 December 2015. It was a damp, dull, December morning. The landlord was neither present nor represented. The tenant was present with her partner, James Tevan, and her representative, Ms L McGregor. The tenant welcomed committee members into the property and patiently allowed committee members to inspect the property.

(b) Committee members commenced their inspection in the kitchen. A tumble dryer had been wedged against the door providing access to the rear garden. Committee members moved the tumble dryer to find that the door did not have a functioning latch nor lock, and opened freely on the slightest hand pressure. Behind the fridge freezer, committee members could see that at skirting board level there is a double electrical socket so damaged that it was hanging from the wall. The surveyor member of the committee took damp meter in readings around the interior ingo of the external door in the kitchen to find higher than normal damp meter readings. It was obvious to committee members that the central heating radiator has come loose from the wall.

(d) On the internal wall in the kitchen there is a Vokera gas central heating boiler. The tenant's partner turned the boiler on, explaining that when the boiler ran for some time the plumbing throughout the house banged & whined. The tenant told committee members that the boiler had not been serviced since you moved into the property of every 2014.

(e) Committee members made their way into the living room of the property. In her application the appellatant complains that water seeps into the living room wall

because guttering above the external side wall of the larger property is damaged. During the inspection the tenant told committee members that the damaged guttering had been repaired or replaced so that water no longer seeped into the living room.

(f) Committee members inspected the double glazed window unit in the living room and could clearly see that the external pane has a small pebble shaped hole. The tenant explained that, on the day she moved into the property, the children in the neighbourhood greeted the tenant and her family by throwing stones at the windows. One of the stones penetrated the external pane. The hole in the external pane has been there since February 2014 and compromises the double glazed window unit. On the windowsill there is evidence of significant water penetration.

(g) The bathroom has a three-piece white sanitary suite together with a separate shower unit. The shower is a power shower with an isolation switch on the hall wall immediately adjacent to the shower. The isolation switch does not work. Committee members turned the shower on and there was no flow of water. Committee members inspected the bath & could see that the bath is insecure on its mountings and the seal around the bath is no longer intact. Committee members turned their attention to the wash hand basin in the bathroom. They turned the taps on, and found that water flowed freely from the tap and drained away without any difficulty.

(h) Committee members inspected one of the three bedrooms (no complaint is made of the other two bedrooms). In the bedroom situated to the front of the property it is immediately clear that a large section of the ceiling is missing. It was clear to committee members that the fabric of the ceiling had been damaged and was peeled back to the Gyproc panels. The strapping forming the foundation of the ceiling finish is clearly visible.

(i) Committee members re-entered the central hallway. The central hallway has laminate flooring. The laminate flooring is loose. There are gaps in the flooring & sections of flooring slide from side to side.

(j) Committee members inspected the electricity consumer unit in the entrance vestibule. Committee members' observations already indicated that there is a defective double socket in the kitchen and that the shower isolator switch does not work. The consumer unit did not show any signs of inspection, despite its age.

(k) Committee members looked for smoke detectors, heat detectors & carbon monoxide detectors. All they could find was one, desultory, battery operated base unit (without a battery) stuck to the ceiling in the central hallway of the property.

(k) A hearing following inspection took place at Jubilee house Stirling. Although the hearing was scheduled to commence at 10.30, it did not commence until 10.35, just in case the landlord wanted to engage with the PRHP process. Committee members were satisfied that the landlord had timeous intimation of the date and time of the inspection and the date time and place of the hearing. The case file reveals that the landlord had simply not engaged. Committee members were satisfied that it was in the interests of justice to proceed with the hearing in the absence of the landlord.

(l) The tenant answered questions from committee members and explained that many of the faults had been evident in the property since the day she moved in. The tenant confirmed (in unambiguous terms) that there has never been an inspection of the gas boiler, nor the electrical supply for the property. The tenant told the committee that she had raised her concerns about the damage to the property with the landlord on a number of occasions, by the landlord had simply ignored her.

(m) The tenant told committee members that in the winter of 2014, water had entered the property from the flat above, and that it caused the damage to the ceilings in the kitchen and the bedroom. The tenant told committee members that the shower in the property had not worked since soon after she moved into the property, and that the sink in the bathroom had been blocked - but that she had unblocked sink in the weeks leading to the date of inspection. The tenant insisted that throughout the occupation of the property there had been no inspection of the gas central heating boiler nor the electrical installation.

(n) Committee members own observations by the inspection quite clearly show that the back door to this property opens and closes with a gust of wind, and that there is a hole in the living room window. Additionally there is water penetration at the back door frame and ingo. The only conclusion can be reached is that the house is not wind and watertight.

(o) Committee members' observations indicate that the shower in the bathroom simply does not work. It does not even have a supply of water. The weight of reliable evidence indicates that the gas boiler has not been serviced since February 2014. The shower isolation switch does not work and there is an obviously defective electrical double socket in the kitchen. The only conclusion that committee members come to is that the installations for the supply of water gas and electricity are not in a reasonable state of repair nor in proper working order.

(p) It was obvious to committee members that the flooring in the central hallway is defective. Sections of the laminate flooring slip, and the flooring is now dangerous. Committee members could not fail to see a significant hole in the ceiling in the bedroom, nor could they fail to see the smaller holes in the ceiling in the kitchen. Committee members accept the evidence of the tenant that the gas boiler and the electrical consumer unit have not been inspected since the tenant took occupation in February 2014.

(q) It was obvious from inspection of this property that it does not have any provision at all for detecting fires nor for giving warning in the event of fire or suspected fire.

(r) The weight of reliable evidence, combined with committee members' observations, indicates that this property falls far below the repairing standard set out in the Housing (Scotland) Act 2006. The committee therefore make a repairing standard enforcement order in the following terms.

(s) The landlord must

(i) Replace the damaged double glazing unit to living room window.

(ii) Carry out such works as are necessary to eliminate water ingress at living room window at cill level, include all making good.

(iii) Securely refix kitchen central heating radiator to wall.

(iv) Repair or replace the back door so that it is secure, wind and watertight, capable of being locked and in proper working order.

(v) Carry out such works as are necessary to eliminate water ingress adjacent to back door frame, include all making good.

(vi) Repair the holes in ceilings in the kitchen and the front facing bedroom and make good.

(vii) Repair or replace the damaged laminate flooring in hall to eliminate trip hazard.

(viii) Repair or replace insecure bath including making good seals at wall.

(ix) Repair WC cistern mechanism to eliminate running overflow.

(x) Carry out a certificated electrical condition check (EICR) on the entire electrical installation of the property, by a suitably qualified and registered SELECT or NICEIC electrical contractor.

(xi) Carry out all works as recommended by that check to ensure that the electrical installation is safe, functional and in proper working order. These works to include the repair or replacement of the instantaneous shower unit.

(xi) Provide a Domestic Electrical Installation Certificate for the works carried out.

Include all ancillary works, making good and decoration. (The Scottish Government has a searchable database containing details for all registered electricians in Scotland.)

(xii) Engage a suitably qualified, and Gas Safe registered, heating engineer to service the gas central heating boiler and investigate the fault causing the boiler to malfunction. Ensure that the boiler and remainder of the heating installation is safe, functional and in proper working order.

(xiii) Carry out a gas safety check and provide a gas safety certificate.

(xiv) Provide and install smoke detection and alarm equipment in accordance with the British Standard on the design of fire detection installations for dwellings (BS5839 Part 6) in conjunction with the Scottish Government's Technical Handbook 2013 Domestic under Section 2 -Fire, Sub-section 2.11 Communication.

(xv) Provide a carbon monoxide detector in accordance with the Scottish Government Statutory Guidance for the provision of carbon monoxide alarms in private rented housing.

All within 2 months of the date of service of the Repairing Standard Enforcement Order.

Decision

12 The committee accordingly determined that the landlord has failed to comply with the duty imposed by Section 14(1)(b) of the Act.

13. The decision of the Committee was unanimous.

Right of Appeal

14. 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

15. 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.....
Chairperson

Paul Doyle

.... Date..... 21/12/2015



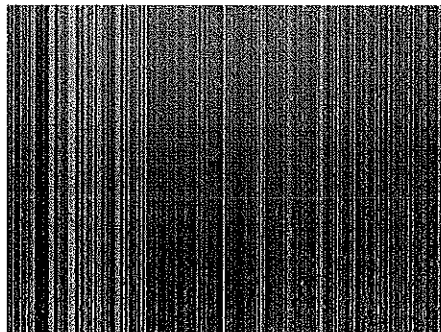
5B Keir Avenue, Raploch, Stirling, FK8 1QL
PRHP/RP/15/0260
Schedule of Photographs - Inspection Date 14/12/2015
Weather – Overcast, drizzle.



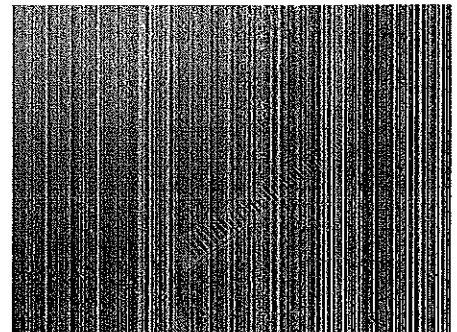
The property



The property



Hole in kitchen ceiling



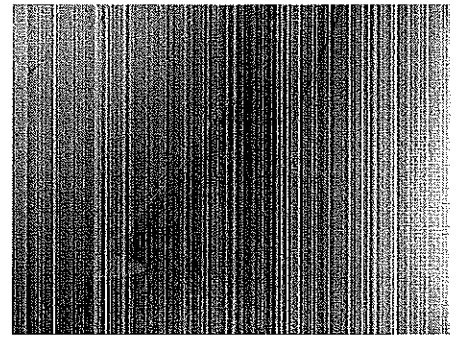
Loose radiator in kitchen



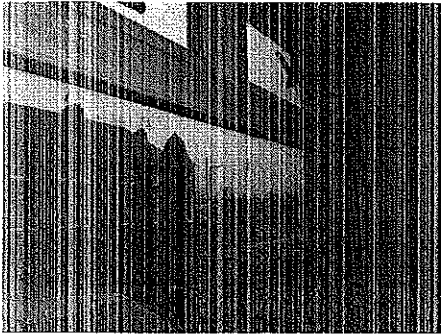
Back Door at kitchen



Damp wall at back door



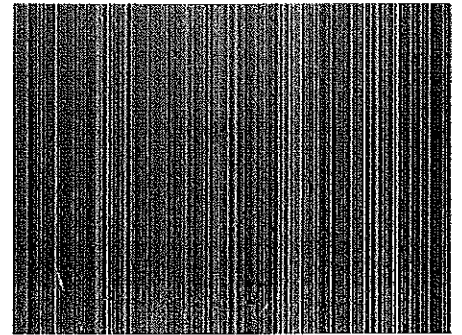
Faulty double socket in kitchen



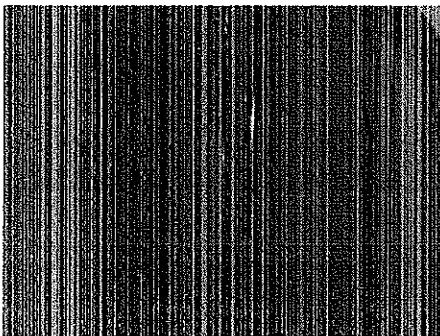
Broken double glazing living room



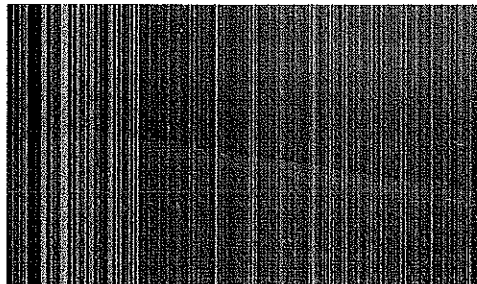
Water penetration living room window



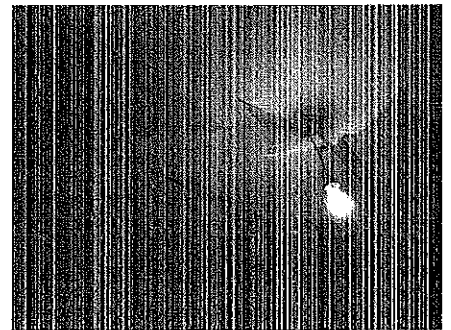
Missing smoke detector



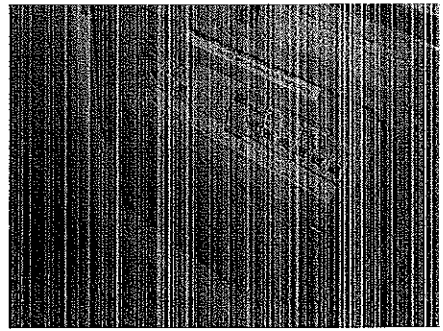
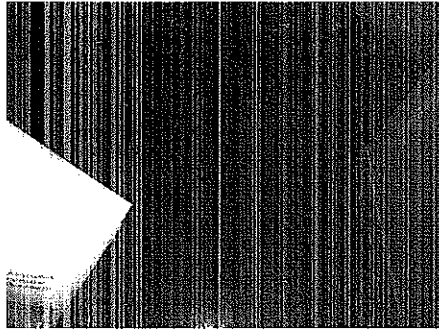
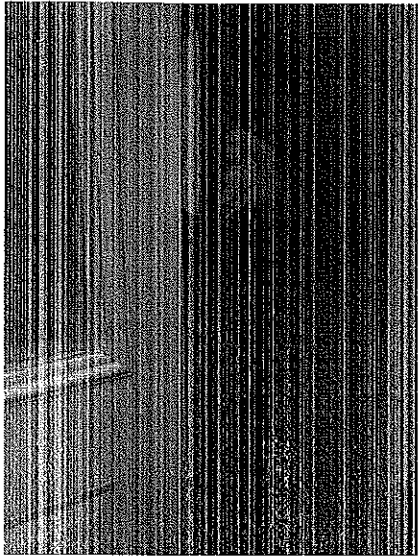
Broken shower unit



Bath and seal



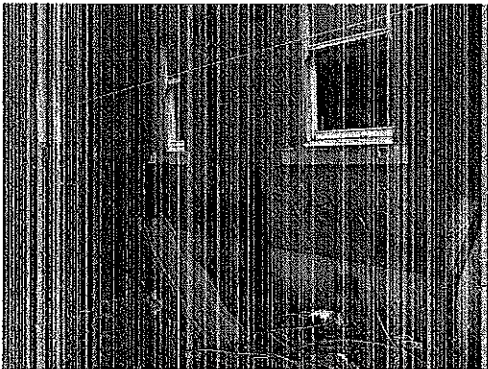
Ceiling in bedroom



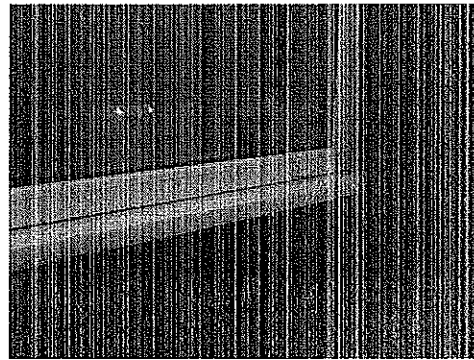
Loose flooring at hall

Distribution board

Back door frame



Rear Elevation



Frame and cill - living room window



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

PRHP Ref: PRHP/RP/15/0260

Property at: 5B Keir Avenue, Raploch, Stirling, FK8 1QL

Title No: STG25149

The Parties

Miss Debbie Goodbrand, residing at 5B Keir Avenue, Raploch, Stirling, FK8 1QL
("the tenant")

and

Mr Athar Almass Firdous, residing at 32 Alpin Drive, Dunblane, FK15 0FQ ("the landlord")

NOTICE TO Mr Athar Almass Firdous, residing at 32 Alpin Drive, Dunblane, FK15 0FQ ("the landlord")

Whereas in terms of their decision dated 21 December 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) The house is wind and watertight and in all other respects reasonably fit for human habitation, in terms of Section 13(1)(a) of the 2006 Act;
- (b) The installations in the house for the supply of water, gas and electricity and for sanitation, space heating and heating water are in a reasonable state of repair and in proper working order, in terms of Section 13(1)(c) of the 2006 Act;
- (c) The fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order, in terms of Section 13(1)(d) of the 2006 Act;
- (d) The house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire, in terms of Section 13(1)(f) of the 2006 Act.

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 to:-

- (i) Replace the damaged double glazing unit to living room window.
- (ii) Carry out such works as are necessary to eliminate water ingress at living room window at cill level, include all making good.
- (iii) Securely refix kitchen central heating radiator to wall.
- (iv) Repair or replace the back door so that it is secure, wind and watertight, capable of being locked and in proper working order.
- (v) Carry out such works as are necessary to eliminate water ingress adjacent to back door frame, include all making good.
- (vi) Repair the holes in ceilings in the kitchen and the front facing bedroom and make good.
- (vii) Repair or replace the damaged laminate flooring in hall to eliminate trip hazard.
- (viii) Repair or replace insecure bath including making good seals at wall.
- (ix) Repair WC cistern mechanism to eliminate running overflow.
- (x) Carry out a certificated electrical condition check (EICR) on the entire electrical installation of the property, by a suitably qualified and registered SELECT or NICEIC electrical contractor.
- (xi) Carry out all works as recommended by that check to ensure that the electrical installation is safe, functional and in proper working order. These works to include the repair or replacement of the instantaneous shower unit.
- (xi) Provide a Domestic Electrical Installation Certificate for the works carried out.
Include all ancillary works, making good and decoration. (The Scottish Government has a searchable database containing details for all registered electricians in Scotland.)
- (xii) Engage a suitably qualified, and Gas Safe registered, heating engineer to service the gas central heating boiler and investigate the fault causing the boiler to malfunction. Ensure that the boiler and remainder of the heating installation is safe, functional and in proper working order.
- (xiii) Carry out a gas safety check and provide a gas safety certificate.
- (xiv) Provide and install smoke detection and alarm equipment in accordance with the British Standard on the design of fire detection installations for dwellings (BS5839 Part 6) in conjunction with the Scottish Government's Technical Handbook 2013 Domestic under Section 2 -Fire, Sub-section 2.11 Communication.
- (xv) Provide a carbon monoxide detector in accordance with the Scottish Government Statutory Guidance for the provision of carbon monoxide alarms in private rented housing.

All within two months of the date of service of service of this order

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 are executed by Paul Doyle, solicitor, 24 Haddington Place, Edinburgh, chairperson of the Private Rented Housing Committee, at Edinburgh on 21 December 2015 before Joseph Doyle, 24 Haddington Place, Edinburgh.

Joseph Doyle

witness

Paul Doyle

chairman