



## Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

Reference : PRHP/RP/15/0261

Re: 15 Fir View, Calderbank, Airdrie ML6 9SW ("the Property")

Title Number : LAN148159

The Parties:-

**MISS LORNA RILEY**, residing at 15 Fir View, Calderbank, Airdrie ML6 9SW ("the Tenant")

**MR JOHN McGLONE**, residing at 12 Tennant Wynd, Bellshill ("the Landlord")

Committee members:-

**Richard Mill (Chairman) and Charles Reid Thomas (Surveyor Member)**

### NOTICE TO MR JOHN McGLONE

Whereas in terms of their decision of even date, 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 ("the Act") and in particular that the landlord has failed to ensure that the property meets the Repairing Standard in respect of:-

**Section 13(1)(a):** the house is wind and watertight and in all other respects reasonably fit for human habitation.

**Section 13(1)(b):** the structure and exterior of the house (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order.

**Section 13(1)(c):** 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.

**Section 13(1)(d):** the fixtures, fittings and appliances provided by the Landlord 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 Property 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:

1. To produce an up to date gas safety certificate in respect of the property.
2. To produce an up to date Electrical Installation Condition Report (EICR) in respect of the whole property. There are electrical supply faults to the shower in the bathroom and the electric hob/oven in the kitchen. Any repairs or renewals recommended within the report require to be instructed and completed.
3. To instruct a reputable roofing contractor to survey and report, in writing, upon the condition of the whole roof, including the slates, flashings, valets, gutterings and down pipes; and to obtain a written report in respect of same and to thereafter instruct all works recommended to ensure that the property is wind and water tight.
4. To instruct a qualified gas engineer to provide a written report on the condition of the gas boiler and to ensure that there is sufficient pressure for it to operate satisfactorily without the need to frequently top up the system; or alternatively if it cannot be serviced and repaired, to replace the boiler.
5. To instruct a suitably qualified tradesman to carry out repairs or renewals to the front door of the property and the window at the top of the stairs within the property to ensure that they can be opened and closed effectively and are wind and water tight.
6. To instruct a specialist survey in respect of the damp noted within the property both at ground floor level behind the front door and within the front single bedroom adjoining the living room and for a written report to be produced in respect of the cause and work required to eradicate the damp and any other symptoms identified and to instruct said work and have said work completed. Redecoration should be carried out thereafter.

The Private Rented Housing Committee requires that the works specified in this Order must be carried out and completed within 6 weeks from the date of service of this Notice. All certificates and reports to be instructed should be produced to the committee for their inspection.

**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.**

Where such an appeal is made, the effect of the decision and 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.

Please note that in terms of Section 28(1) of the Act, a Landlord who, without reasonable excuse, fails to comply with a RSEO commits an offence liable on

summary conviction to a fine not exceeding level 3 on the standard scale. A Landlord (and that includes any Landlord's successor in title) also commits an offence if he or she enters into a tenancy or occupancy arrangement in relation to a house at any time during which a RSEO has effect in relation to the house. This is in terms of Section 28(5) of the Act.

In witness whereof these presents typewritten on this and the preceding page(s) are executed by Richard Mill, Solicitor, chairperson of the Private Rented Housing Committee at Edinburgh on the Twenty-third day of December Two Thousand and Fifteen before this witness:-

**Margaret Johnstone Murray**

witness

**Richard Mill**

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chairman

Margaret Johnstone Murray  
21 Stafford Street  
Edinburgh  
EH3 7BJ

Legal Secretary

Ref PRHP/RP/15/0261



**Private Rented Housing Committee**

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

**Re: 15 Fir View, Calderbank, Airdrie ML6 9SW (“the Property”)**

**Title Number: LAN148159**

**The Parties:-**

**MISS LORNA RILEY, residing at 15 Fir View, Calderbank, Airdrie ML6 9SW  
 (“the Tenant”)**

**MR JOHN McGLONE, residing at 12 Tennant Wynd, Bellshill (“the Landlord”)**

**Committee members:-**

**Richard Mill (Chairman) and Charles Reid Thomas (Surveyor Member)**

*Decision*

The committee, having made enquiries for the purposes of determining whether the Landlord has failed with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 (“the Act”) in relation to the Property, determined that the Landlord has failed to comply with the duty imposed by Section 14(1)(b) of the Act in respect that the Property does not meet the Repairing Standard.

### *Background*

1. By way of application received on 24 September 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 Act in respect of the Property.
2. In the application the Tenant stated that the Landlord had failed to comply with their duty to ensure that the house meets the Repairing Standard in a number of respects. The relevant aspects of the Repairing Standard put at issue are those contained within Sections 13(1)(a), (b), (c) and (d) which are in the following terms:-
  - whether the house is wind and watertight and in all other respects reasonably fit for human habitation.
  - whether the structure and exterior of the house (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order.
  - whether 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.
  - whether any fixtures, fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order.
3. The complaints of Tenant were specifically described in the Application in the following way:-
  - dampness in “middle room”; the roof; cistern in bathroom; boiler, cooker; front door; two windows; and the shower. There was little further specification of the issues.
4. Notices of Referral were issued to parties on 6 November 2015.

### *Inspection*

5. The committee inspected the Property on 15 December 2015 at 9.00 am. The Tenant invited the committee members into the Property and directed them around. The Landlord had been invited but did not attend.

### *Hearing*

6. Following the inspection of the Property the committee convened a Hearing at Airdrie Business Centre Chapel Street, Airdrie, ML6 6GX. The Landlord appeared personally. The Tenant had informed the committee at the inspection that she would be unable to attend.

*Summary of the issues*

7. The issues to be determined by the committee are whether or not the Property meets the Repairing Standard to the extent put at issue within the application, as at the date of the Hearing. The focus of the committee's investigation related to the complaints as specified within paragraph 3 above.

*Findings in Fact*

8. The committee makes the following findings in fact:
- 8.1 The title to the subjects known as 15 Fir View, Calderbank, Airdrie ML6 9SW is held by the Landlord. Their interest is registered in the Land Register of Scotland under title number LAN148159 on 18 November 2005.
- 8.2 The parties entered into a Short Assured Tenancy in relation to the Property on 7 June 2010. The tenancy has continued since then.
- 8.3 The Property which is the subject of this application is an upper three bedroomed flat.
- 8.4 In relation to the matters complained of in the Application the committee's inspection revealed:-
- i. The roof of the property is in a general poor state of repair. There are missing slates. There are loose flashings. There are leaking gutterings. There is vegetation within the gutterings.
  - ii. The gas fired combination boiler situated within the kitchen of the property was not operative.
  - iii. The electric hob/oven was inoperative.
  - iv. There was evidence of substantial water ingress and damp in the single bedroom to the front of the property which adjoins the living room.
  - v. There was evidence of damp within the walls at ground floor level around the entrance of the property behind the front door.
  - vi. The window at the top of the stairs in the property is not capable of being opened or closed.
  - vii. The flush system of the cistern within the bathroom is broken.
  - viii. The front door of the property does not close to provide a wind and water tight seal.

- ix. Reference is made to the attached schedule of photographs which were taken at the time of the committee's inspection.

*Reasons for the Decision*

9. The committee determined the application having regard to the bundle of papers (which had been made available in advance to parties), their inspection, together with the evidence at the Hearing.
10. The committee was only able to formally consider the Tenant's complaints which formed part of the intimated application. The committee was also under an obligation to consider the Tenant's complaints as at the time of the Inspection on 15 December 2015.
11. The committee was satisfied having regard to all of the available evidence that there was sufficient information and material upon which to reach a fair determination of the reference.
12. The committee had regard to the email received from the landlord the evening before the inspection and Hearing. The committee also had regard to the representations made by the Landlord personally at the hearing. Substantially the committee's decision was based upon the evidence seen at the time of their inspection.
13. The Landlords position as summarised is that he is committed to repairing and renewing aspects of the property which are necessary to ensure that the property meets the repairing standard. The Landlord's position is that some of the complaints have not been intimated to him (despite the terms of the application) or alternatively, that access has not been gained for the purposes of resolving the difficulties. The committee formed the view that there may well have been occasions when the tenant has not cooperated fully in allowing access to the Landlord or his representatives instructed but nonetheless on the basis of the submissions in evidence from the Landlord the committee were unimpressed with the level of commitment which he has to ensuring that the property does meet the repairing standard. He was unable to provide clear confirmation of the existence of a gas safety certificate or electrical safety check. Whilst he made reference to recent works instructed he could not provide full details of the contractors used or their qualifications.
14. Reference is made to the committee's findings, and in particular the facts established at the time of the committee's inspection within paragraph 8.4 above. The required repairing standard is not currently met. A number of works require to be undertaken. There is a breach of sections 13(1)(a), (b), (c) and (d) of the Act.

*Decision*

15. The Property does not meet the Repairing Standard. The Landlord has not complied with their duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006. A Repairing Standard Enforcement Order is necessary. A Repairing Standard Enforcement Order is issued contemporaneously herewith.
16. There are 2 other matters to note. Firstly although the issue of smoke alarms was not raised within the application it was noted that there are 2 alarms in the house. It was unclear however whether either are operative. The landlord should investigate that matter and be aware of the Scottish Government guidance on the provision of smoke detectors. Additionally the landlord should be aware of the new regulations which came into force on 1 December 2015 with regards to electrical compliance and the provision of a carbon monoxide detector. Secondly there was evidence before the committee of non compliance by the tenant. It is essential that she comply fully with reasonable access requests to enable the landlord to carry out the work now Ordered.

*Right of Appeal*

17. 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 of the Act*

18. Where such an appeal is made, the effect of the decision and of any order made, 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 date on which the appeal is abandoned or so determined.

Margaret Jonstone Murray

witness

Margaret Johnstone Murray  
21 Stafford Street  
Edinburgh  
EH3 7BJ

Legal Secretary

**Richard Mill**

chairman

Date: 23 December 2015



# Davidson & Robertson

## RURAL

Photographic Record of: 15 Fir View, Calderbank, Airdrie ML6 9SW  
Date of Inspection: 15<sup>th</sup> December 2015



Front Elevation. Roof , gutter and downpipes in poor state of repair.



Rear Elevation



Rear elevation roof and chimney in poor state of repair



Poorly fitting front door



Stair window does not open or close



Severe damp issues in mid bedroom almost certainly related to roof defects.



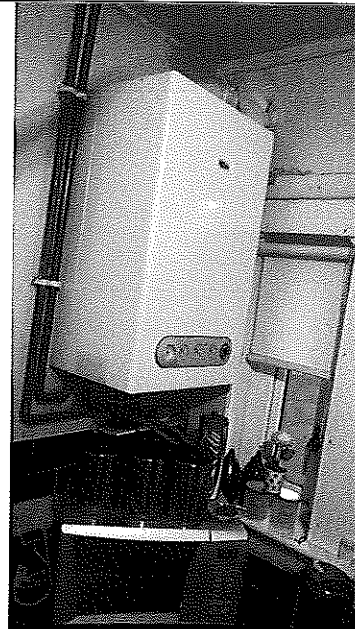
String used for flush on cistern



Shower switch does not work



Hob and oven not working



Boiler losing pressure