



## **Repairing Standard Enforcement Order**

**Ordered by the Private Rented Housing Committee**

References: PRHP/RP/15/0317 & PRHP/RP/16/0109

Re property at: Flat 4/2, 83 Candleriggs, Glasgow, G1 1LF, being the subjects registered in the Land Register of Scotland under Title Number GLA56406 ("the Property")

The Parties:-

Ms Eneida Garcia Villanueva, residing at Flat 4/2, 83 Candleriggs, Glasgow, G1 1LF ("the Tenant")

And

Mr Iain Thomson per his Agents R & G Estate Agents Limited, having their place of business at 57 Townhead, Kirkintilloch, Glasgow, G66 1NN, ("the Landlord")

R & G Estate Agents Limited, having their place of business at 57 Townhead, Kirkintilloch, Glasgow, G66 1NN ("The Landlord's Agents")

### **NOTICE TO**

**R & G Estate Agents Limited, having their place of business at 57 Townhead, Kirkintilloch, Glasgow, G66 1NN ("The Landlord's Agents")**

Whereas in terms of their decision dated 24 June 2016, the Private Rented Housing Committee ("the 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:-

- (a) The Property is wind and water tight and in all other respects reasonably fit for human habitation (section 13(1)(a) of the Act);
- (b) The structure and exterior of the Property (including the drains, gutters and external pipes) are in a reasonable state of repair and in proper working order (Section 13 (1) (b) of the Act).
- (c) The installations in the Property 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)(c) of the Act).

- (d) Any furnishings provided by the Landlord under the tenancy are capable of being used safely for the purpose for which they are designed (section 13(1)(d) of the Act).

The Committee now requires the Landlord to carry out such work as is necessary for the purposes of ensuring that the Property 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 Committee require the Landlord to:-

- (a) instruct a certified Electrical Installation Condition Report ("EICR"), on the electrical installations of the Property, which check should be conducted by a suitably qualified and registered SELECT or NICEIC electrical contractor. Thereafter the Landlord is to carry out such works as may be recommended in terms of the EICR to ensure that the entire electrical installations within the Property are safe, functional and in proper working order. The Landlords are required to exhibit a copy of a final Electrical Condition Check Certificate when any necessary works are completed;
- (b) carry out such works as are necessary to provide blinds in the dining room, living room and on the mezzanine floor of the Property;
- (c) instruct a report from a damp specialist on the control and prevention of condensation in the Property and carry out such works as are recommended in this report to ensure that the Property is fit for human habitation so that it does not suffer from excessive condensation;
- (d) carry out such works as are necessary to ensure that the iron gate is repaired so that it is in a reasonable state of repair and in proper working order; and
- (e) carry out such works as are necessary to the common door to ensure that it is in a reasonable state of repair and in proper working order.

The Committee order that the works specified in this Order must be carried out and completed within the period of 6 weeks from the date of service of this Notice.

A Landlord or a 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.

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.

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 type written on this page only and the two preceding pages are executed by Andrew Cowan, chairperson of the Private Rented Housing Committee at Glasgow on 24 June 2016 before this witness:-

A Cowan

Signed .  
Andrew Cowan, Chairperson

.....

L McManus

..... Witness  
Laura McManus, Secretary, 7 West George Street, Glasgow, G2 1BA



## **Determination by Private Rented Housing Committee**

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

References: PRHP/RP/15/0317 & PRHP/RP/16/0109

Re property at: Flat 4/2, 83 Candleriggs, Glasgow, G1 1LF, being the subjects registered in the Land Register of Scotland under Title Number GLA56406 ("the Property")

The Parties:-

Ms Eneida Garcia Villanueva, residing at Flat 4/2, 83 Candleriggs, Glasgow, G1 1LF ("the Tenant")

And

Mr Iain Thomson per his Agents R & G Estate Agents Limited, having their place of business at 57 Townhead, Kirkintilloch, Glasgow, G66 1NN, ("the Landlord")

R & G Estate Agents Limited, having their place of business at 57 Townhead, Kirkintilloch, Glasgow, G66 1NN ("The Landlord's Agents")

#### **Decision**

The Private Rented Housing Committee ("the Committee"), having made such enquiries as it saw fit for the purpose of determining whether the Landlord has complied with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 ("the Act") in relation to the Property concerned and, taking account of the evidence led by the Tenant at the hearing, determined that the Landlord has failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

#### **The Committee**

Mr Andrew Cowan – Chairperson

Ms Carol Jones – Surveyor Member

## Background

1. By applications, dated 13 November 2015 and 21 March 2016, the Tenant applied to the Private Rented Housing Panel ("the Panel") for a determination as to whether the Landlord had failed to comply with the duties imposed by Section 14 (1)(b) of the Act.
3. The applications by the Tenant stated that the Tenant considered that the Landlord had failed to comply with his duty to ensure that the property meets the repairing standard at all times during the tenancy (as required by Section 14 (1)(b) of the Act).
4. The Tenant has listed in her applications a summary of how she considers the Landlord has failed to meet the repairing standard and has further stated details of the nature of the work which she considers requires to be completed by the Landlord to ensure that the Property meets the repairing standard.
5. A summary of the alleged breaches of the repairing standard, arising from both applications are:-
  - (a) Some of the doors in the Property are difficult to open and door handles have fallen off;
  - (b) A number of the light bulbs in the Property blow with considerable frequency;
  - (c) There is dampness in the bathroom on the ceiling, walls and shower;
  - (d) The fridge is not in a reasonable state of repair
  - (e) The shelves in the lounge are not properly secured to the wall;
  - (f) The blinds within the dining area and on the mezzanine floor of the Property are not fully operable and not in proper working order. The blinds in the lounge of the Property are

fixed in a manner which restricts the ability to properly open and close the windows in that room;

- (g) The Property suffers from excessive condensation. The full length windows situated in the dining room suffer from excessive condensation and allow excessive drafts into the Property. The wood surrounding these windows is rotten and mould grows on the window frames. In addition, there is excessive condensation in the top floor bedroom of the Property. The timber surround to the bedroom window frame has developed a hole due to damp/rot.
  - (h) The automatic iron security gate situated at the entrance to the development at which the flat is situated is broken and is not capable of being secured; and
  - (i) The door leading to the common stairway at 83 Candleriggs does not operate correctly.
6. The Committee served a notice of referral dated 3 May 2016 under Section 22(1) of the Act on the Landlord's Agents and the Tenant.
  7. In terms of the said notice of referral, parties were advised that the Committee intended to inspect the property on 10 June 2016 at 10am and to thereafter hold a hearing in relation to the application, on the same date, at Wellington House, Wellington Street, Glasgow, G2 2XL at 11.30am.
  8. There has been no response from either the Landlord or the Landlord's Agents.
  9. The Committee proceeded with the inspection on 10 June 2016. The Committee attended at the Property and carried out a visual inspection of the Property. The Tenant was present during the inspection. Dr Andrew Wilson (who is the co-Tenant of the Property), was also present during the

inspection. The Committee thereafter held a hearing in relation to the application at 134 Wellington Street, Glasgow, G2 2XL. Both the Tenant and Dr Andrew Wilson attended the hearing and gave evidence to the Committee at the hearing.

The Landlord and the Landlord's Agents did not attend either the inspection or the hearing in relation to the application.

10. Photographs were taken during the inspection by the Committee. Copies of the photographs taken by the Committee are attached as a schedule to this report.

#### **Description of Property**

The subject property comprises a 4th floor flat with attic accommodation situated in Patrick Thomas Court in the Merchant City district in Glasgow city centre. This building was converted/renovated in the 1980's. There are shops to the ground floor, a communal deck access to the rear and a pend providing vehicular access to the rear parking/courtyard area. The facade is rendered and is partly clad in red sandstone, the roof is pitched and assumed to be tiled. The accommodation is accessed via an internal staircase leading to a small entrance hallway, it comprises a living room, dining room, kitchen and bathroom on the 4th floor and a mezzanine used as a study and one large double bedroom on the attic floor. The windows are a mixture of timber single glazed and PVC double glazed units.

### **The inspection and the hearing**

11. The Committee heard evidence from the Tenant and Dr Wilson at the hearing. A summary of the evidence taken in relation to each of the alleged breaches of the repairing standard as brought forward by the Tenant (together with the Committee's own observations from the inspection) are as follows:-

(a) At the time of the inspection, issues in relation to internal doors at the Property had been resolved. The Landlord had arranged for certain works to be carried out to the doors and for certain works to be carried out to ensure that door handles were properly fixed. In the circumstances, the Tenant accepted that there was no failure to meet the repairing standard in relation to this issue;

(b) The Committee observed at the inspection that a number of the light bulbs within the Property were not operational.

The Tenant had complained in her application that light bulbs blow within days after being installed. In her evidence to the Committee at the hearing, the Tenant and Dr Wilson further explained that they are concerned that the electrics within the Property are not fit for purpose and the light bulbs blow with considerable frequency. They gave evidence that an electrician had attended the flat on at least three occasions and he had stated to the Tenant that it was his recommendation that the lighting circuit required to be upgraded;

(c) At the inspection, the Committee noted that there was a small amount of black mould spotting on the ceiling of the bathroom. The bathroom in the Property is an internal room with no window. It has an operable extractor fan;



- (d) At the time of the inspection, the fridge was operational and the Tenant accepted at the hearing that there was no failure of the repairing standard in relation to this issue;
- (e) The Tenant had complained that shelves situated in the lounge of the Property were not properly secured. At the time of the inspection, the Committee noted that the shelves had been secured properly to the wall and the Tenant accepted at the hearing that there was no failure of the repairing standard in relation to this issue;
- (f) Within the dining area of the Property, there are three balcony doors. Each door has a roller blind (being fittings which were provided by the Landlord at the commencement of the tenancy). The Committee noted from their own observations at the time of the inspection that the blinds are incapable of being properly operated. Only the central blind has a pull cords, the other two blinds have to be pulled down manually and cannot be rolled back once closed and are generally not fit for purpose. In her evidence at the hearing, the Tenant explained that the lack of operational blinds is a concern to her as the windows themselves are draughty and, as the blinds cannot be closed, there is no method of covering the windows. The Tenant also explained that the lack of operable blinds meant there was no privacy.

The Committee further noted from their own observations at the inspection that the blinds which were fitted in the lounge of the Property had been fitted in a manner which prevented the windows from fully opening. It was also noted that the fitting and associated screws for the blind above the right hand window were loose and the blind was hanging down.

It was further noted that the blind to the circular window on the mezzanine floor of the Property had fallen off the wall;

- (g) The Tenant complained that the Property suffers from excessive condensation. At the time of the inspection, the Committee noted that the windows within the Property were generally in poor repair. The full length balcony windows within the dining area of the Property were single glazed. There was evidence of some black mould growth on these windows. In the lounge of the Property the windows could not be fully opened because of the positioning of the blinds and there was a significant buildup of black sport mould around both windows particularly on the side jambs. On the mezzanine floor of the Property, the circular window could not be properly closed and locked. In the bedroom of the Property, the window pane was cracked and the window itself and surrounding timber showed evidence of condensation, dampness and rot. The Committee observed that, within the Property, there were only two small wall mounted electric heaters and one free standing electric heater.

In her evidence the Tenant complained that the heating which had been provided for the Property was wholly inadequate for the size and design of the Property. The Tenant explained that, particularly in winter, it was impossible to heat the Property as some of the windows were not capable of being closed and the Property was not capable of being heated and, as a consequence, the Property would suffer from excessive condensation. The windows in the dining area and in the bedroom area of the Property were particularly susceptible to condensation and condensed water would eventually "pool" at the bottom of the windows concerned. Dr Wilson gave evidence to the fact that the dining area of the Property was so cold in the winter that it was not possible to use the room as it was not capable of being adequately heated;

- (h) The Committee noted from their own observations that the iron security gate, situated at the entrance to the development in which the flat was situated, was open at the time of inspection and was not capable of being secured. The Tenant confirmed in her evidence that the automatic iron gate had not been operable since October 2015. The Tenant

complained that the Landlord had failed to take sufficient action to address this issue and to ensure that the gate was in a fully operable condition; and

- (i) The Committee observed at the time of the inspection that the door which led to the common stairway 83 Candleriggs and which provided access to the Tenant's flat (along with others), did not close properly. The Tenant explained that as a consequence of the failure of the door to close properly it would often not be locked and, on occasion, undesirable third parties had taken access to the common stairway. In the circumstances, the Tenant felt that her own security was at risk. The Committee had observed from their observations that, although the door closed when pulled, the automatic closing mechanism did not operate sufficiently to allow the lock to fully "catch" when the door was left to close automatically and accordingly, did not appear to be in an operable condition.

#### **Decision**

- 12. Having inspected the Property and having considered the written evidence which was provided by the Tenant and, having heard the further oral evidence which was provided by the Tenant at the hearing, the Committee determined as follows:-

- (a) The internal doors within the Property had been repaired and there is no continuing failure of the repairing standard in relation to this issue;
- (b) There is a sufficiency of evidence, for the Committee to find in fact that installations in the Property for the supply of electricity are not in a reasonable state of repair and not in proper working order. The Committee accepted the Tenant's evidence that there appeared to be problems with the electrical lighting circuit within the Property. The Committee accordingly found in fact that the lighting circuit, being an installation in the Property for the supply of electricity was not in a

reasonable state of repair and in proper working order, as required by Section 13 (1)(c) of the Act.

The Committee accordingly determined that the Landlord is required to instruct a certified Electrical Installation Condition Report ("EICR"), on the electrical installations of the Property, which check should be conducted by a suitably qualified and registered SELECT or NICEIC electrical contractor. Thereafter the Landlord is to carry out such works as may be recommended in terms of the EICR to ensure that the entire electrical installations within the Property are safe, functional and in proper working order. The Landlords are required to exhibit a copy of a final Electrical Condition Check Certificate when any necessary works are completed;

- (c) Although the Committee had observed some evidence of dampness on the bathroom ceiling, the Committee considered that this was likely to be attributable to steam arising from normal use of the bathroom. The Committee did not consider that there was a significant problem of dampness in the bathroom and found no failure of the repairing standard in this respect;
- (d) At the time of the inspection, the fridge in the Property was operational and in working order. The Committee accordingly determined there was no failure of the repairing standard in this respect;
- (e) At the time of the inspection, the Committee noted that the shelves in the lounge had been properly secured to the wall and that there was no failure of the repairing standard in relation to this issue;

- (f) Based on their own observations at the inspection the Committee found in fact that the blinds in the dining area were not in working order.

The Committee further found in fact that the blinds in the lounge were not in working order as they prevented the windows in the lounge from fully opening and one of the fittings was defective.

The Committee further found in fact that the blind for the circular window on the mezzanine floor of the Property was not in proper working order as it had fallen down and appeared to the Committee that it had never been properly fixed to the wall of the Property.

The Committee accordingly determined that the blinds in the dining room, lounge and on the mezzanine floor of the Property, being fittings supplied by the Landlord under the tenancy, were not in a reasonable state of repair and not in proper working order as required by Section 13 (1)(d) of the Act. The Committee accordingly determined that the Landlord should carry out such works as are necessary to provide blinds in each of these rooms which were in a reasonable state of repair and in proper working order;

- (g) The Committee had regard to the Landlord's duty to provide a house which meets the repairing standard and in particular to provide a house which is wind and watertight and in all other respects reasonably fit for human habitation Section 13(1)(a) of the Act.

The Committee had further regard to case law in determining whether the Property was habitable. In *Fyfe –v- Scottish Homes* 1995 SCLR209, the Court held that a Landlord's obligation to provide a habitable house is not restricted to protecting the Tenant from physical danger. The Court held that both the comfort and the status of the Tenant are relative in determining whether the house is habitable. The Court further held that the meaning of habitable must be related to the realities of life and a house which is uninhabitable by reason of being excessively cold or damp cannot be said to be habitable simply by applying a large amount of heat and incurring inordinate heating bills, it might be rendered habitable.

The Committee found in fact that the Property was not habitable as it was excessively cold and suffered from extreme condensation in cold weather. In determining this fact, the Committee used their own skill and experience and took account of their own observations of the condition of the Property at the time of the inspection. The Committee also took account of the evidence of the Tenant, who the Committee found to be credible in this respect. The Tenant had complained that the Property was excessively cold and that the Property suffered from excessive condensation in cold weather. There was no evidence before the Committee which might suggest that the "lifestyle" of the Tenants was likely to give rise to the problem of condensation. The Committee were not able to determine the exact cause of the condensation and accordingly determined that the Landlord should instruct a report from a damp specialist on the control and prevention of condensation in the Property and carry out such works as are recommended in this report to ensure that the Property is fit for human habitation so that it does not suffer from excessive condensation. The Committee accordingly determined that the Landlord should carry out such works as are

necessary to the Property to ensure that the Property is fit for human habitation so that it does not suffer from excessive cold or condensation;

- (h) The Committee found in fact that the automatic iron security gate which gave entrance to the development was not operational. The iron gate is a structure which is enjoyed by the Tenant, together with the living accommodation in common with others. It is accordingly part of the "house" as defined by section 194 (1)(b) of the Act. The Landlord has a duty to ensure that the iron gate, as part of the structure and exterior of the Property is in a reasonable state of repair and in proper working order. The Committee accordingly determined that the Landlord should carry out such works as are necessary to ensure that the iron gate is repaired so that it is in a reasonable state of repair and in proper working order.
  - (i) The Committee found in fact that the common door leading to the stairway which services the Tenant's flat is not operational in that it does not close properly. The common doorway is part of the structure and exterior of the Property and the Committee found that it was not in a reasonable and in proper working order. The Committee accordingly determined that the Landlord should carry out such works as are necessary to that common door to ensure that it is in a reasonable state of repair and in proper working order.
13. The Committee accordingly determined that the Landlord had failed to comply with the duty imposed by Section 14 (1) (b) of the Act. The Committee proceeded to make a Repairing Standard Enforcement Order as required by Section 24(1) of the Act.
14. The decision of the Committee was unanimous.

**Right of Appeal**

15. 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.

**Effect of section 63**

16. 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.

A Cowan

Signed ..... Date 24 June 2016  
Andrew Cowan, Chairperson

L McManus

.....Witness  
Laura McManus, Secretary, 7 West George Street, Glasgow, G2 1BA