



## **REPAIRING STANDARD ENFORCEMENT ORDER**

### **THE PROPERTY**

**22 Kemp Court, Hamilton, Lanarkshire ML3 6QF, registered in the Land Register for Scotland under title number LAN99404 (hereinafter referred to as "the property")**

### **The Parties**

**Ms Samantha Bolton and Bruce Pringle, residing at the Property - (hereinafter referred to as "the applicants")**

**Note: The Tenancy under which the application was made, having been lawfully terminated, and the Committee having determined to continue with the determination of the application in terms of Minute of Continuation dated 4 February 2016 under Schedule 2 Paragraph 7(3) of the Act there was no Tenant**

**and**

**Kenneth Arthur, residing sometime at flat 6, 201 Quarry Street, Hamilton and also of Apartment 4, 7 Riverside view, Cleyton le Moors, Accrington BB5 5YN per Igloo Estate Agents, 2 Gateside Street, Hamilton ML3 7JG.**

**(hereinafter referred to as "the Landlord")**

**PRHP Reference: PRHP/RP/15/0346**

**Committee Members – David Preston (chairperson) and Andrew Taylor (Surveyor Member)**

1. **WHEREAS** in terms of their decision dated 23 February 2016 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');-
  - i. Liaise with the property factors responsible for management of the development of which the property forms part to ensure that such repairs are carried out as are necessary to the secure door entry system to ensure that two-way communication is available between the flat handset and building entry panel and that the entire secure entry system is in proper working order.
  - ii. Replace the silicone seal at the junction of kitchen worktops and ceramic tiled wall.
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**

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: IN WITNESS WHEREOF these presents typewritten on this and the 2 preceding pages are subscribed as follows:

**D Preston**

CHAIRMAN

**G Hutton**

WITNESS

Wishaw

PLACE OF SIGNING

Gillian Hutton

FULL NAME OF WITNESS

25 Feb 2016

DATE OF SIGNING

MHTS

ADDRESS

Bothwell House  
Caird Park  
Hamilton  
ML3 0QA



## **DETERMINATION & STATEMENT OF REASONS**

**Issued by the Private Rented Housing Committee in terms of Section 24 and Paragraph 6(2)(b) of Schedule 2 of the Housing (Scotland) Act 2006**

### **THE PROPERTY**

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### **The Parties**

**Ms Samantha Bolton and Bruce Pringle, residing at the Property - (hereinafter referred to as "the applicants")**

**Note: The Tenancy under which the application was made, having been lawfully terminated, and the Committee having determined to continue with the determination of the application in terms of Minute of Continuation dated 4 February 2016 under Schedule 2 Paragraph 7(3) of the Act there was no Tenant**

**and**

**Kenneth Arthur, residing sometime at flat 6, 201 Quarry Street, Hamilton and also of Apartment 4, 7 Riverside view, Cleyton le Moors, Accrington BB5 5YN per Igloo Estate Agents, 2 Gateside Street, Hamilton ML3 7JG.**

**(hereinafter referred to as "the Landlord")**

**PRHP Reference: PRHP/RP/15/0346**

**Committee Members – David Preston (chairperson) and Andrew Taylor (Surveyor 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. The applicants 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 applicants complained that the landlord had failed to meet the Repairing Standard in respect that: the installations in the house for the supply of water, gas and electricity and for sanitation, space heating and heating water were not in a reasonable state of repair and in proper working order; any fixtures, fittings and appliances provided by the landlord under the tenancy were not in a reasonable state of repair and in proper working order; and any furnishings were not capable of being used safely for the purpose for which they were designed.
3. In particular the applicants complained that: floors in the hallway and living room needed replacing – large scrapes throughout; the front door was dented from a previous tenant kicking it in; the lock was stubborn and on the verge of breaking; the intercom system did not work; there was a massive hole in the wall between the kitchen and bathroom; there was a leak in the kitchen sink which was causing the kitchen counter around the sink to subside; the other counters are needing work done around them as the filler is rotten and turning black; the shower was unsafe to use.
4. By email dated 20 January 2016 the applicants advised that they were vacating the property on 25 January 2016 and the Committee determined issue a Minute of Continuation dated 4 February 2016.
5. On 20 January 2016 the Committee issued a Direction to require the landlord to lodge a satisfactory EICR prepared by a suitably competent person registered with NICEIC or SELECT; and, if appropriate, a satisfactory Gas Safe Certificate. On 29 January 2016 the landlord lodged a EICR dated 25 April 2013 along with a Legionella Risk Assessment dated 22 August 2015 both of which were in terms satisfactory to the Committee.

## **Inspection**

6. The Committee inspected the property on the morning of 23 February 2016 and thereafter held a hearing at Bothwell Bridge Hotel, 89 Main Street, Bothwell, Glasgow G71 8EU. The landlords were represented by Neil Schoneville, of Igloo Estate Agents throughout the inspection.
7. The inspection revealed that the property was a top floor flat in a four story traditionally built flatted development approximately fifteen years old. Accommodation comprised: living room, kitchen, two bedrooms and bathroom.
8. The Committee had regard to the complaints raised by the applicants and found as follows:
  - a. The front door lock was stiff but was considered by the Committee to be serviceable and it determined to make no order in that regard.
  - b. The intercom was reported to be faulty and Mr Schoneville advised that the factors had been informed. The Committee determined that an order be made to ensure that pressure was maintained on the factors to have the necessary repair carried out.
  - c. The laminate flooring in the hallway showed signs of wear but the Committee did not consider it to create any health or safety risk and made no order.
  - d. An area of where a hole had been between the kitchen and bathroom had been repaired. It was noted that this was where a dishwasher drainage outlet had been connected to the bathroom drainage. The Committee determined to make no order.
  - e. The silicon seals around the kitchen sink and worktops were found to be in need of replacement. The Committee determined to make an order.
  - f. The shower was reported as having been replaced and was noted by the Committee to be in working order. The Committee made no order.
9. Photographs of the property and of the issues raised are attached hereto.
10. There was no attendance at the hearing.

## **Decision**

11. The Committee considered its observations at the inspection and determined that, although the remaining outstanding issues were comparatively minor, it would be of benefit to an occupier of the property for them to receive attention and, on balance, determined to grant a Repairing Standard Enforcement Order in respect of the intercom and the silicon seals in the kitchen.

### **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.

26/02/2016

**X D Preston**

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CHAIRMAN

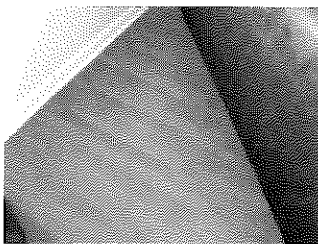
Signed by: DAVID MICHAEL PRESTON



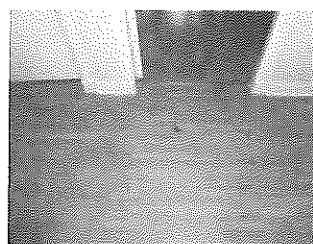
22 Kemp Court, Hamilton, ML3 6QF  
PRHP/RP/15/0346  
Schedule of Photographs - Inspection Date 22/02/2016  
Weather - Clear, cold and dry



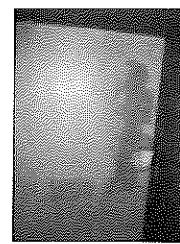
1. The property



2. Living Room laminate floor



3. Hall laminate floor



4. Repair at hole in Kitchen