



**Repairing Standard Enforcement Order**

**Ordered by the Private Rented Housing Committee**

Determination by Private Rented Housing Committee

Statement of Decision of the Private Rented Housing Committee issued under

Section 24(1) of the Housing (Scotland) Act 2006

Ref prhp/rp/16/0026

In respect of an application lodged in terms of Section 22(1) of the Housing (Scotland) Act 2006 by Jeffrey Read residing at 3 Lyle Grove, Gardens, Greenock, PA1 on behalf of himself and Mrs Elaine Blyth ("the Tenants") against Richard Robb and Cindy Robb residing at 7 Dunvegan Avenue, Gourock, PA19 1AE ("the Landlords") per their Agents, Castle Estates, 14 Union Street, Greenock, PA16 8JJ

Re: 3 Lyle Grove, Greenock, PA167QU ("the Property") registered in the Land Register of Scotland under Title Number REN119183

Committee Members

Karen Moore (Chairperson)

Andrew Taylor (Surveyor Member)

**NOTICE TO THE LANDLORD**

Richard Robb and Cindy Robb residing at 7 Dunvegan Avenue, Gourock, PA19 1AE ("the Landlords") per their Agents, Castle Estates, 14 Union Street, Greenock, PA16 8JJ

Whereas in terms of their decision dated 7 March 2016, the Private Rented Housing Committee determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 and in particular that the Landlord had failed to ensure that the Property is wind and watertight and otherwise reasonably fit human habitation and that 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. The Private Rented Housing Committee now requires the Landlord to carry out the following works or other such works as are necessary for the purposes of ensuring that the Property meets the

Repairing Standard and that any damage caused by carrying out of the works in terms of the Order is made good.

The Landlord must on or before 22 April 2016:-

1. In consultation with the tenant, instruct a suitably qualified and RICS registered building surveyor to carry out a detailed survey of the monopitch roof over the open plan area and bedroom at the front (entrance elevation) to identify the position and source of water ingress through the monopitch roof and thereafter engage a competent felt roofing contractor to rectify any defects identified to ensure that the roof is wind and water tight.
2. Repair or replace the leaking copper pipe in the basement area to ensure that the pipe is in full working order.
3. Carry out such works as are required to ensure that the radiators in the lounge and bedroom area provide an even heat and are in full working order.
4. Carry out such works as are required to ensure that the bath mixer tap functions evenly and consistently, providing a flow and temperature commensurate with other hot water outlets in the property and is left in full working order and
5. Carry out all ancillary works necessitated by the above works to make good decoration.

A Landlord or a Tenant aggrieved by the decision of the Private Rented Housing Committee may appeal to the Sheriff by summary application within twenty one 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 printed on this and the preceding page are subscribed by Karen Moore, Chairperson, at Glasgow on 7 March 2016 before this witness, Norman William Moore, solicitor, Cumbernauld.

W Moore

K Moore

*Witness*



Determination by Private Rented Housing Committee

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

Ref prhp/rp/16/0026

In respect of an application lodged in terms of Section 22(1) of the Housing (Scotland) Act 2006 by Jeffrey Read residing at 3 Lyle Grove, Gardens, Greenock, PA1 on behalf of himself and Mrs Elaine Blyth ("the Tenants") against Richard Robb and Cindy Robb residing at 7 Dunvegan Avenue, Gourrock, PA19 1AE ("the Landlords") per their Agents, Castle Estates, 14 Union Street, Greenock, PA16 8JJ

Re: 3 Lyle Grove, Greenock, PA1 ("the Property")

Committee Members

Karen Moore (Chairperson)

Andrew Taylor (Surveyor Member)

Background

1. By application received on 25 January 2016 ("the Application"), the Tenants applied to the Private Rented Housing Panel for a determination that the Landlord had failed to comply with the duty imposed on him by Section 14 (1) (b) of the Housing (Scotland) Act 2006 in respect that the Property does not meet the Repairing Standard in respect of Sections 13 (1) (a) and 13 (1) (d) of the Act.
2. The President of the Private Rented Housing Panel, having considered the application, intimated to the parties by Notice of Referral dated 2 February 2016, a decision under Section 23 (1) of the Act to refer the Application to a Private Rented Housing Committee, and, in terms of Schedule 2, Paragraph 1 of the Act fixed an Inspection and Hearing for 2 March 2016 at 1.00 p.m. and 2.00 p.m. respectively.

Written Representations

3. Both parties submitted written representations. The Landlords submitted two reports: one from Bayholme Builders in respect of the roof and one from Grierson, a firm of plumbers, in respect of the hot water and pipes.

Inspection and Hearing.

4. Inspection took place on for 2 March 2016 at 1.00 p.m. at the Property. Mr. Read of the Tenants and Mr. Robb of the Landlords were present.

5. The Committee inspected the Property and the items of which the Tenants complained specifically in the Application, namely:-
  - a) The monopitch roof and open beamed ceiling over the open plan area and bedroom at the front of the Property (photos 1, 2 and 3 and photos 4, 5 and 6) ;
  - b) The radiator in the living room (photo 8) ;
  - c) The hot water tap at the bath (photo 9) and
  - d) The water pipes in the basement (photo 7).
6. During the Inspection, Mr Read showed the Committee and Mr Robb a video taken on his mobile phone which Mr Read said was of rain water dripping from the beams of the ceiling onto the floor.
7. During the Inspection, the Committee tested the radiator in the living room and the hot water tap at the bath.
8. The Committee took digital photos of the Property which form the Schedule annexed and which photos are cross referenced at paragraph 5.
9. Following the Inspection, a Hearing was held at The Gamble Halls, 44 Shore Street, Gourrock at 2.00 p.m. Mr. Read, Mr. Robb and Mr Neil Woodhead of the Landlord's Agent were present.
10. At the Hearing, Mr Read advised the Committee that the Tenants had moved into the Property in October 2105 and had reported problems with *inter alia* the radiator, hot water, leaking pipes and rain water ingress from that time. Mr Read acknowledged that the Landlords and the Landlords' Agent had effected some repairs but the problems complained of in the Application remained unresolved to his satisfaction.
11. With regard to the water ingress at the ceiling, Mr Read acknowledged that this was intermittent, although worsening, and occurred mostly when there was heavy rain. Mr Read also acknowledged that neither the ceiling nor the floor had been marked.
12. With regard to the radiator in the living room, Mr Read stated that this did not heat up properly.
13. With regard to hot water tap at the bath, Mr Read advised the Committee of problems with water pressure and explained that although the water flow could be adjusted to obtain some hot water, the temperature did not hold and that there was insufficient hot water to run a bath. Mr Read emphasised that he did not to run water from more than one tap at time. Mr Read acknowledged that the shower above the hot water tap had been fixed and that it now provided hot water. Mr Read advised the Committee that a plumber who called out on behalf of the Landlords had suggested that the problem might be caused by the cold and hot water mixing in the pipes or by the configuration of the pipes in general.
14. With regard to the leaking pipes in the basement, Mr Read acknowledged that a repair had been carried out to these pipes but they were still leaking.
15. Mr Read advised the Committee that he had been inconvenienced by the problems with the property and had taken time out from work to attend the Committee proceedings.

- (a) There is a possibility of rain water ingress at the open beamed ceiling above the kitchen, the upper hallway and one of the bedrooms;
  - (b) The radiator in the living room is not functioning properly as it is cool to touch;
  - (c) The hot water tap at the bath is not functioning properly as the tap requires considerable manipulation for the water to run at a reasonably hot temperature at which it runs only short periods of time before running at a cool temperature and
  - (d) The water pipes in the basement are leaking.
26. From the Hearing, the Committee found that both parties were truthful and represented matters in a reasonably factual and measured way, albeit they held different views in respect of the standard of repair which a tenant might expect and in respect of the way in which on-going problems might be resolved by means of repair.
27. With regard to the water ingress, the Committee discounted that this could be caused by the cats urinating as the water in Mr Read's video appeared to be clear and droplets could be seen dripping from the beams where no cats were present at that time. The Committee accepted that no water marks are visible, but, from the Committee's professional opinion, The Committee are of the view that lack of water marks does not mean that there is no rain water ingress. The Committee found that on balance, water ingress is likely. The Committee did not accept that water ingress is to be expected in properties in Scotland and that this is a reason not to effect a repair.
28. With regard to the hot water tap at the bath, the Committee did not accept Mr Robb's assertion that it was usual for a bath to take some time to fill with hot water and that this particular bath in the Property would fill with water hot enough for a bath from this particular pipe. The Committee are of the view that the lack of hot water may be connected to water pressure or the pipe configuration and that only an in depth survey of the water supply would
29. With regard to the radiator in the living room and the leaking pipes in the basement, the Committee noted that the Landlords undertook to have these repaired.

#### Decision of the Committee

30. The Committee's decision was based on the Application, the Inspection, the written representations, the reports submitted by the Landlords and the statements made to the Committee at the Hearing.
31. In respect of Section 13 (1) (a) of the Act, the Committee found that at the date of the Hearing the Landlords have failed to comply with the duty imposed by Section 14 (1) (b) of the Act as the Property was not wind and watertight and in all other respects reasonably fit for human habitation.
32. In respect of Section 13 (1) (d) of the Act, the Committee found that at the date of the Hearing the Landlords have failed to comply with the duty imposed by Section 14 (1) (b) of the Act as the installations in the Property for the supply of water, gas and electricity and for sanitation, space heating and heating water are not in a reasonable state of repair.

33. The decision is unanimous.

#### Right of Appeal

34. 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.

35. Where such an appeal is made, the effect of the decision and of any repairing standards enforcement 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 any repairing standards enforcement order will be treated as having effect from the day on which the appeal is abandoned or so determined.

Signed

K Moore

Karen Moore, Chairperson

Date 7 March 2016

7 March 2016

This is the schedule of photographs referred to in the foregoing decision

K Moore



3 Lyle Grove, Greenock, PA16 7QU

PRHP/RP/16/0026

Schedule of Photographs - Inspection Date 02/03/2016

Weather - Overcast, cold and dry



1. The property



2. The property



3. The property



4. Ceiling/beams at open plan area





5. Ceiling/beams at open plan area



6. Ceiling/beams at open plan area



7. Leaking pipe - basement



8. Radiator – lounge



9. Bath/shower mixer arrangement



10. Heat detector