



Repairing Standard Enforcement Order
Ordered by the Private Rented Housing Committee

PRHP Ref: RP.16.0064

Re: Property at 47 Stanmore Crescent, Lanark, ML11 7DF ("the Property")

Title No: LAN 15033

The Parties:-

Paul Reilly, 9 Balmoral Crescent, West End Carstairs, Lanark, ML11 8RX; Paul Reilly, 20 Clark Terrace, Carnwath, ML11 8JB ("the Landlord")

George Stodart, 47 Stanmore Crescent, Lanark, ML11 7DF ("the Tenant")

NOTICE TO Mr Paul Reilly ("the Landlord")

Whereas in terms of their decision dated June 2016 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 is:-

- (a) wind and watertight and in all other respects reasonably fit for human habitation;
- (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;
- (c) any 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 instruct a suitably qualified building contractor to inspect the property, investigate the cause of any dampness and condensation in the living room and bedroom and carry out any recommended repairs to eradicate same.
2. To repair the front door so that draughts are effectively excluded from the property.
3. To instruct a registered gas safe engineer to inspect the boiler and living room radiator to establish the cause of any leaks and carry out any repairs required to rectify same.
4. To obtain and exhibit a current gas safety record in relation to the property.

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

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.

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 and the preceding pages are executed by Josephine Bonnar, Solicitor, Chairperson of the Private Rented Housing Committee at Motherwell on 29 June 2016 before this witness:-

J. BONNAR

____Chairperson

G. BONNAR

____Witness

Gerard Bonnar _____ Name in full

BUCHANAN HOUSE _____ Address

58 FORT DUNDAS ROAD

GLASGOW

Solicitor _____ Occupation



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

PRHP Ref: RP/16/0064

Re: Property at 47 Stanmore Crescent, Lanark ML11 7DF ("the Property")

Title No: LAN 15033

The Parties:-

Mr George Stodart ("the Tenant")

**Mr Paul Reilly 9 Balmoral Crescent, West End, Carstairs ML11 8RX; Mr
Paul Reilly, 20 Clark Terrace, Carnwath ML11 8JB ("the Landlord")**

Decision

The Committee, having made such enquiries as it saw 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 ("the Act") in relation to the property, and taking account of the evidence led by the Tenant at the hearing determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

The Committee comprised:-

Mrs Josephine Bonnar, Chairperson

Ms Carol Jones, Surveyor Member

Background

1. By application received on 16 February 2016 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 Housing (Scotland) Act 2006 ("the 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. The Tenant did not specify in his application which elements of the repairing standard had not been complied with but specified the following issues:- draughts from the front door, lack of hot water, difficulty opening the bathroom door because the floor is swollen, damp in the living room and bedroom, difficulty heating the living room, damage to external plaster work at

the base of the property and front door step and no carbon monoxide detector.

3. The Private Rented Housing Committee served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon both the Landlord and the Tenant on 3 May 2016.
4. Following service of the Notice of Referral neither the Landlord nor the Tenant made written representations. The Landlord intimated that he had a hospital appointment on the day of the inspection and hearing but that he wished both to proceed in his absence.
5. The Private Rented Housing Committee inspected the property on the morning of 13 June 2016. Only the Tenant and his partner were present during the inspection.
6. Following the inspection of the property the Private Rented Housing Committee held a hearing at Lanark Sheriff Court, Hope Street, Lanark. The Tenant was present and gave evidence. The Landlord did not attend the hearing and no evidence was led on his behalf.

The Inspection

7. At the time of the inspection the weather was warm and dry. The Committee were able to inspect the whole property. The property is a small one bedroomed flat situated in a row of 2 storey similar properties and located in a residential area around one mile north east of the centre of Lanark. The property comprises a vestibule, living room, kitchen, bathroom and bedroom. The Tenants partner May Donnachie was present and confirmed that she also resides at the property. The Committee were advised that a repair had recently been carried out to the front door by a repairman instructed by the Landlord. The locks had been moved and tightened. The door now opens and closes properly but the repair did not deal with the draughts. The Tenants partner advised that the draught excluder attached to the door was purchased and fitted by the Tenant but is not effectively excluding draughts. The Committee noted a gap in same near the bottom of the door but noted no draughts at the time of the inspection. The Tenant advised that the boiler had been repaired two months previously and as a result the property is now warm and there is plenty of hot water. However, the boiler and living room radiator now leak. The Committee noted that the boiler is located in the bedroom wardrobe and there is a CO detector on the wall nearby which the tenant advised was installed at the time of the repair. The Tenant advised the Committee that the walls in the living room and bedroom next to the windows are affected by damp. The Tenants partner said she had recently cleaned the areas affected so no mould was evident but on inspection there was some evidence of condensation and damp. Damp meter readings taken were in the amber zone around the base of the rear and front external walls,

9. In response to questions by the Committee the Tenant and his partner indicated that the dampness in the living and bedroom had not noticeably improved since the heating was repaired although they acknowledged that this was of recent date. They advised that heating is put on as required rather than being on a timer because there is no thermostat and cost is an issue. They confirmed that the rooms are well ventilated and the extractor fan in the bathroom is always used. They further advised that the dampness was much worse in the winter causing an unpleasant smell in the property. Dehumidifiers were bought a couple of months previously and have to be emptied frequently. These were purchased because of the amount of moisture around the plug points which had caused them concern. They also indicated that the drip from the boiler and living room radiator is annoying and can be heard at night. The overflow pipe in the back garden has also dripped since the boiler repair. The Committee was also advised that although a gas safety check was carried out in September the Tenant has not been provided with a copy of the gas safety record.
10. No evidence was led by or on behalf of the Landlord. The Landlord had intimated in advance of the hearing that he would not attend but was content for the inspection and hearing to proceed in his absence and furthermore that the work had been completed.

Findings in Fact

11. The property is a one bedroom ground floor flat in a modern development. The accommodation comprises a living room, kitchen, bathroom and bedroom.
12. The Tenant and his partner have resided at the property since May 2012. The tenancy is continuing.
13. The Landlords wife has been the Tenants sole point of contact throughout the tenancy. She has collected rent and dealt with repairs complaints.
14. The Tenant has notified the Landlord of the repair issues at the property.
15. In recent months the Landlord has arranged for repairs to be carried out to the property. External repairs to plasterwork and the back step and a repair to the bathroom floor and door have resolved these repair issues. A repair to the boiler and the front door have partially resolved these repair issues but not completely.
16. The living room and bedroom are affected by condensation and damp.

17. There are draughts from the front door.
18. The boiler and living room radiator leak. There is a leak from the overflow pipe.

Reason for decision

19. The Committee considered the issues of disrepair set out in the Application and noted at the inspection and hearing.
20. The Tenants evidence at the Hearing was unchallenged by the Landlord. No written representations were received although the Landlord had made contact by telephone call to the Private Rented Housing Panel to advise that he would not attend the hearing but was content for it to proceed in his absence. He also intimated that the repairs issues had been attended to. The Tenant had made reference in his evidence to an allegation by a repair man that the Landlord was not fully aware of his complaints. The Committee were satisfied however that it was entirely reasonable for the Tenant to contact the Landlord's wife in relation to the repairs issues as she had always been the sole point of contact. Once advised to contact the landlord direct a letter was issued to him at the address provided. The Committee was persuaded that the Landlord was aware of the complaints. This was supported by his telephone call when he specifically stated that he had arranged for the necessary repairs to be carried out.
21. The Tenant confirmed at the hearing that some repairs had been effected. This was also evident from the Committees inspection of the property. The bathroom door appears to be in proper working order. There was evidence of a recent repair to plasterwork at the bottom of the walls at the front and back of the property and the front door step and the back step. A CO detector has been installed. The Committee was satisfied that there is no breach of the repairing standard in relation to these matters.
22. Although there has been a repair to the front door the Committee were satisfied from the inspection and the evidence of the Tenant and his partner that this has not resolved all issues and that the door is still affected by draughts. It was also evident that the repair to the boiler, although successfully addressing the heating and hot water issues, has left a drip from the boiler, the radiator and the overflow pipe outside which require to be addressed. The Committee was satisfied that the property is affected by condensation and dampness. It was of the view that the recent repairs to the boiler and external plaster might lead to an improvement in this situation over time but that the matter still requires investigation and possible

remedial work. A gas safety record has not been supplied to the tenant. The Committee also noted that the property has not been provided with hard wired interlinked smoke and heat detectors which is of concern and the Committee hopes that the landlord will rectify this situation without delay.

23. The Committee accordingly took the view that the property fails to meet the repairing standard in relation to subsection 13(1)(a),(c) and (d) and that it will require to make a Repairing Standard Enforcement Order in respect of the boiler, radiator, front door and dampness.

Decision

24. The Committee accordingly determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

25. The Committee proceeded to make a Repairing Standard Enforcement Order as required by section 24(1)

26. The decision of the Committee was unanimous

Right of Appeal

- 27. 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

28. 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.

J. BONNAR

Signed.. Date 29 June 2016
Josephine Bonnar, Chairperson



Schedule of photographs taken during the inspection of 47 Stanmore Crescent, Lanark
ML11 7DF by the Private Rented Housing Committee on the 13 June 2016.

Reference Number : PRHP/RP/16/0064



External view - Front elevation of property



Front Porch Door - internal view



Front Porch Door - external view of lower section - gap in draught excluder



Front Porch Door - internal view showing draught excluders



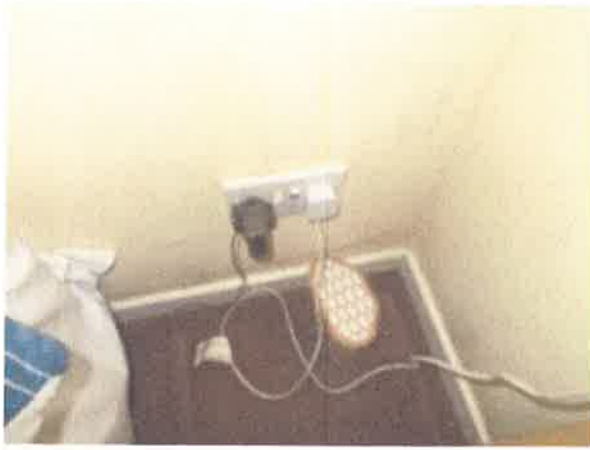
Cupboard in Bedroom showing boiler and bucket below



Radiator in Living Room - leaking



Bedroom - Rear corner - right



Bedroom - Rear corner - left



Living Room - front corner - left



Living Room - front corner - right



Bathroom floor



Rear Elevation at base



Rear elevation at base



Front Porch and step



Front Porch and step



Carbon Monoxide alarm - Bedroom



Battery powered Fire Angel smoke alarm - Hall