



## Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

PRHP Ref: PRHP/RP/16/0143

Property at: 27 Cultrig Drive, Whitburn, West Lothian EH47 8HN

Title No: WLN24264

### The Parties

Ryan Deacon, residing at 27 Cultrig Drive, Whitburn, West Lothian EH47 8HN  
("the tenant")

and

George Weir & Ann Isobel Weir, residing at 34 Holm Road, Crossford, Lanark ML8 5RG  
("the landlord")

NOTICE TO George Weir & Ann Isobel Weir, residing at 34 Holm Road, Crossford, Lanark ML8 5RG  
("the landlord")

### Committee Members

Paul Doyle  
Charles Reid-Thomas

Chairperson  
Surveyor Member

Whereas in terms of their decision dated 21 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 and in particular that the landlord has failed to ensure that:

- (a) The house is wind and water tight and in all other respects reasonably fit for human habitation, in terms of Section 13(1)(a) of the 2006 Act;
- (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, in terms of Section 13(1)(c) of the 2006 Act;

the Private Rented Housing Committee now requires the landlord to carry out such work as is necessary for the purposes of ensuring that the house 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 Private Rented Housing Committee requires the landlord to:-

(i) Repair or replace the timer on the gas central heating boiler and thereafter provide the PRHP with a report from a suitably qualified, and Gas Safe registered heating engineer on the condition of the gas central heating boiler, & if necessary, carry out any further repairs or replacement to ensure that the boiler is in proper working order.

(ii) Repair or replace the front door, the double hallway doors and the patio doors to the rear of the property.

(iii) Repair or replace the PVC drainage serving the kitchen sink and fit a properly working overflow drain pipe to the kitchen sink.

All within 8 weeks of the date of service of service of this order

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.

In witness whereof these presents are executed by Paul Doyle, solicitor, 24 Haddington Place, Edinburgh, chairperson of the Private Rented Housing Committee, at Edinburgh on 21 June 2016 before Julie Oswald, 24 Haddington Place, Edinburgh.

J. OSWALD

P. DOYLE

witness

chairman



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

**PRHP Ref:** PRHP/RP/16/0143

**Property at:** 27 Cultrig Drive, Whitburn, West Lothian EH47 8HN

**Title No:** WLN24264

**The Parties**

Ryan Deacon, residing at 27 Cultrig Drive, Whitburn, West Lothian EH47 8HN  
("the tenant")

and

George Weir & Ann Isobel Weir, residing at 34 Holm Road, Crossford, Lanark ML8  
5RG  
("the landlord")

**Decision**

The Committee, having made such enquiries as it sought 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 in relation to the property concerned and taking account of all of the evidence available to the Committee, determined that the landlord has breached the duty imposed by Section 14(1)(b) of the 2006 Act.

**Background**

- 1 By application received on 11 April 2016, the tenant applied to the Private Rented Housing Panel to determine whether or not the landlord had failed to comply with the duties imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 ("the 2006 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 and, in particular that the landlord had failed to ensure that:
  - (a) The house is wind and water tight and in all other respects reasonably fit for human habitation, in terms of Section 13(1)(a) of the 2006 Act;
  - (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, in terms of Section 13(1)(c) of the 2006 Act; and

3 By interlocutor dated 28 April 2016, the President of the Private Rented Housing Panel intimated a decision to refer the application under Section 23(1) of the 2006 Act to a Private Rented Housing Committee. The Committee was made up of:

Paul Doyle  
Charles Reid-Thomas

Chairperson  
Surveyor Member

4 The Private Rented Housing Panel served notice of referral under and in terms of Schedule 2 Paragraph 1 of the 2006 Act on the landlord and the tenant on 28 April 2016. Following service of referral, neither party made any further written representations to the Private Rented Housing Panel.

5 The Committee inspected the property at 10am on 9 June 2016. The tenant was present and welcomed committee members into the property. The landlord was not present, but was represented by their agent, Marie McRae.

6 Following inspection of the property, the Private Rented Housing Committee held a hearing at Seafield Community Centre, Seafield, West Lothian. Both the tenant and Ms McRae, the landlord's agent, came to the hearing and answered questions put to them by committee members.

7 The tenant's position is that double glazed patio doors to the rear of the property no longer fit the window space and fall out of the runners. The adjacent double glazed double doors (providing access to the hall) have a defective lock and are not weather proof. The front door does not have a door handle. The Kitchen sink is not plumbed in properly, and the timer for the gas central heating boiler does not work.

8 The landlord's position is that the defects complained of by the tenant exist, but until now they could not afford to carry out the repairs.

### **Summary of Issues**

9 The issues to be determined are whether or not the house complies with the repairing standard set out at Sections 13 and 14 of the 2006 Act.

### **Findings in Fact**

10 (a) The landlord is the heritable proprietor of the property which is the subject matter of this application. On 25 August 2015 the landlord let the property to the tenant.

(b) The property is an end terraced building on two floors, with gardens to front and rear. The front door opens into the kitchen, which provides access to the hallway. The ground floor hallway provides access to the living-room, and to the stairs leading to the upper floor, where there are two bedrooms and a bathroom.

(c) Entrance to this property is gained through a glazed door. The door handle is missing. In order to open and close the door, the tenant inserts a broken door handle into the lock fitting. The tenant accidentally broke the door handle in February 2016 when he was trying to lock the door. Although the landlord was immediately told that the door handle was broken, by 9 June 2016 the landlord has not replaced the door handle.

(d) The kitchen sink should have a water-overflow pipe. Although there is a hole in the sink for an overflow pipe, no overflow pipe is connected. The sink drains through PVC pipes fitted in a cupboard below the sink. The PVC drainage pipes leak and require repair or replacement.

(e) The property benefits from gas central heating. The central heating boiler is fixed to a wall in the Kitchen. The central heating boiler works, but the timer unit (which forms part of the overall central heating system) does not. The landlord sent an electrician to repair the timer. The Landlord's electrician fitted a new timer unit in the hallway. That timer unit powers up when switched on, but the timer programme does not work. As a result, the central heating can only be switched on and off manually.

(f) To the rear of the property there are large double glazed patio doors in the living room and double glazed twin doors in the Hall. The patio doors no longer fit, and easily fall free from their runners. The double glazed twin Hall doors have a bolt missing from one side, and the lock fitting on the companion door does not work. The weather seal on the hall doors does not work. In wet weather, the hall doors allow water to flow into the hallway.

(g) The landlord has been aware of the defects to the patio doors and the hall doors since February 2016. The landlord has had three contractors inspect the doors. All three contractors have told the landlord that the doors throughout the property (front and back) must be replaced and cannot be repaired.

(h) During the inspection, the surveyor member took photographs of the property. A schedule of those photographs is attached hereto and forms part of this decision.

(i) The committee therefore finds that a repairing standard enforcement order is necessary and will issue a repairing standard enforcement order requiring the landlord to

(i) Repair or replace the timer on the gas central heating boiler and thereafter provide the PRHP with a report from a suitably qualified, and Gas Safe registered heating engineer on the condition of the gas central heating boiler, &, if necessary, carry out any further repairs or replacement to ensure that the boiler is in proper working order.

(ii) Repair or replace the front door, the double hallway doors and the patio doors to the rear of the property.

(iii) Repair or replace the PVC drainage serving the kitchen sink and fit a properly working overflow drain pipe to the kitchen sink.

(j) The committee require the works to be carried out within eight weeks

### **Reasons for Decision**

11 (a) Committee members inspected this property at 10am on 9 June 2016. It was a clear, dry, bright summer morning. The landlord was not present but was represented by her agent, Miss McRae. The tenant welcomed committee members into the property.

(b) Committee members inspected the front door, the twin double glazed hall doors and the patio doors. Committee members inspected the kitchen sink, then switched the central heating boiler on and off, before trying to use the central heating timer unsuccessfully.

(c) After the inspection, a hearing took place at Seafield Community Centre, Seafield, West Lothian. Miss McRae attended for the landlord, the tenant was present. Both Ms McRae and the tenant answered questions from committee members. The hearing was brief and focused because the inspection clearly demonstrated that there was merit in the tenant's complaints. Miss McRae candidly accepted that the defects complained of exist.

(d) What the committee saw at the inspection, and Miss McRae's candid admissions, drive the committee to find that the door handle to the front door broke in February 2016 & has not been replaced. For the same reasons, the committee finds that the patio doors serving the living room are loose and fall out of their runners, and the hall door does not have an effective weather-seal, so that water seeps into the property. The hall door's locking system is broken. It is common ground that three contractors have inspected each of these doors and told the landlord that the doors cannot be repaired; that the doors require replacement.

(e) It is abundantly clear that the kitchen sink does not have an overflow drainage pipe fitted. It was clear from inspection that the PVC drainage pipes which are fitted to the sink are leaking. The weight of reliable evidence together with committee members' observations inform the committee that the kitchen sink has been leaking for some time.

(f) The central heating system should have a timer unit. Committee members' observations together with the tenant's unchallenged oral evidence lead the committee to the conclusion that the timer unit does not work and must be repaired or replaced.

(g) Because each of the external doors of this property are defective, the committee find that the house is not wind and watertight. The property cannot therefore meet the repairing standard set out in section 13(1)(a) of the 2006 Act.

(h) The kitchen sink & the gas central heating boiler are installations which form part of the system for supply of water, gas and space heating. The committee find that there are defects in the sink and the central heating timer unit. The property cannot therefore meet the repairing standard set out in section 13(1)(c) of the 2006 Act.

(i) The committee must therefore make a repairing standard enforcement order.

## **Decision**

12 The committee accordingly determined that the landlord has failed to comply with the duty imposed by Section 14(1)(b) of the Act.

13. The decision of the Committee was unanimous.

## **Right of Appeal**

**14. 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**

15. 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.

P. DOYLE

Signed....  
Chairperson

.... Date 21 June 2016

**Photographic Record of: 27 Cultrig Drive, Whitburn, EH47 8HN**  
**Inspection 9.6.2016**



27 Cultrig Drive (Front Elevation). 2 bedroom, 2 storey, end terrace, brick house. Exterior in a poor state of repair.



27 Cultrig Drive (Rear Elevation)



Patio Door. Ill fitting sliding door prone to come off sliding rail and fall out. Rotten timber at foot of door. The patio door unit requires repair/replacement.



Close up of patio door.





Rear door seals are ill fitting and door is very difficult to secure. The door unit requires to be repaired/replaced.



Rear door and patio doors requiring repair/replacement.