



**REPAIRING STANDARD ENFORCEMENT ORDER**

**BY THE**

**PRIVATE RENTED HOUSING COMMITTEE**

PRHP Ref: prhp/PH40/177/11

**PROPERTY**

**2 Tougal, Morar, Mallaig PH40 4PD, registered in the Land Register for Scotland under Title Number INV14595**

**PARTIES**

**Mark Woodward, formerly of the property and now of Fois-a-Chridhe, Columba Road, Morar, Mallaig PH40 4PA**

**Tenant**

and

**Neil Riddell, formerly of 4 Stafford Street, Tain, IV19 1BP and now c/o 4 Hope Street, Greenock, Renfrewshire PA15 4AN (represented by Mr & Mrs Riddell, residing at 4 Hope Street aforesaid**

**Landlord**

1. **WHEREAS** in terms of their decision dated 20 March 2012 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 the property fails to meet the repairing standard as set out in section 13(1) of the Act.

2. The Committee now requires the landlord 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 are 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');-
  1. To undertake the repairs identified in the Report from West Highland Timber Preservation dated 19 January 2012.
  2. To carry out further investigation of the apparent rising damp in the kitchen, bathroom and back bedroom and to carry out such work as is identified as necessary to eliminate the rising damp and condensation.
  3. To repair or replace the front door to make it wind and watertight.
  4. To repair or replace the windows as necessary to ensure that they are in good repair and proper working order.
4. The Committee **HEREBY FURTHER ORDERS** that the Works specified in this Order must be carried out and completed before the expiry of the Completion Date of 6 months from the date of service of this Order.

### **RIGHT OF APPEAL**

5. 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**

6. 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 consisting of this and the preceding two pages are subscribed as follows:-

**D Preston**

**Chairman**

26/3/12.....

**Date of Signing**

GLASGOW.....

**Place of Signing**

**S Preston**

**Witness**

SHEILA ELIZABETH PRESTON.....

**Name**

WESTONK.....

**Address**

DUNCRAIG ROAD.....

GLASGOW.....

ARGLYLL.....



## **PRIVATE RENTED HOUSING COMMITTEE**

### **STATEMENT OF DECISION OF THE PRIVATE RENTED HOUSING COMMITTEE UNDER SECTION 26(1)) OF THE PRIVATE RENTED HOUSING PANEL (APPLICATIONS AND DETERMINATIONS)(SCOTLAND) REGULATIONS 2007**

**In connection with**

**PROPERTY:**

**2 Tougal, Morar, Mallaig PH40 4PD (hereinafter referred to as "the Property")**

**Mark Woodward, formerly of the property and now of Fois-a-Chridhe, Columba  
Road, Morar, Mallaig PH40 4PA (hereinafter referred to as "the Tenant")**

**and**

**Neil Riddell, formerly of 4 Stafford Street, Tain, IV19 1BP and now c/o 4 Hope  
Street, Greenock, Renfrewshire PA15 4AN (represented by Mr & Mrs Riddell,  
residing at 4 Hope Street aforesaid (hereinafter referred to as "the Landlord")**

**PRHP Reference: prhp/PH40/177/11**

#### **Decision**

**The Committee, having made such enquiries as is fit for the purposes of  
determining whether the Landlord has complied with the duty imposed by  
Section 14 (1)(b) in relation to the house concerned, and taking account of the  
evidence led by the Landlord at the hearing as well as their written  
representations, determined that the Landlord had failed to comply with the  
duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006  
(hereinafter referred to as "the Act").**

#### **Background**

- 1. By application dated 18 October 2011 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 and in particular that the Landlord had failed to ensure that:-
  - (a) the house is 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) The house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.
3. On 4 November 2011, the President of the Private Rented Housing Panel, having been informed by the Tenant that the lease had been lawfully terminated, determined that the application should continue to be referred to a Private Rented Housing Committee in terms of Schedule 2 Paragraph 7(2)(b) of the Act and by Notice dated 9 November 2011 intimated that decision to the Landlord.

The Committee comprised the following members:

Mr. David M Preston, Legal Member  
Mr. Robert Buchan, Surveyor Member  
Mr. Chris Harvey, Housing Member

4. Following service of the Notice of Referral the Landlord by letters dated 14 November 2011, made written representations to the Committee.
5. On 9 December 2011 the Committee made the following Direction to the parties in terms of Regulation 14 of the Private Rented Housing Panel (Applications and Determinations) (Scotland) Regulations 2007:

The Landlord is to provide:-

- 1) An up to date periodic electrical inspection report from a qualified electrician to confirm that the installation for the supply of electricity in the house and the storage heater complained of at the house are in a reasonable state of repair and in proper working order. The electrician should also confirm if there is a hard wired smoke detector in the house and if there are more than one smoke detection device that the devices are interlinked and are in working order.
- 2) Recent receipts from a joiner for works to the windows and door at the house to make them wind and watertight.
- 3) An up to date report from a damp specialist confirming whether or not there are dampness issues in the walls of the bathroom, kitchen and back bedroom given the alleged complaint of mould on the walls of these rooms by the Tenant.

The Landlord was required to lodge these reports and certificates with the Private Rented Housing Panel no later than midday on 13 January 2012 along with any receipts for works undertaken upon the preparation of any of the foregoing reports.

In response to that Direction, on 21 January 2012 the Landlord lodged a Survey Report dated 9 December 2012 from West Highland Timber Preservation as well

as a satisfactory Periodic Inspection Report dated 25 November 2011 from K Jones, Electrical Contractor.

6. The Private Rented Housing Committee inspected the Property on the morning of 20 March 2012. Mr & Mrs Riddell, the Landlord's parents were present as his representatives due to his absence abroad. In addition, Mr \*\*\* the present Tenant was present.
7. Following the inspection of the Property the Private Rented Housing Committee held a hearing at the property. The Committee considered the written evidence submitted, and heard evidence and submissions from the Landlord's parents. The current Tenant was present and was in agreement with what was said.
8. There were no preliminary matters raised

#### **Summary of issues**

9. The issue to be determined was whether the property meets the repairing standard as laid down in Section 13 of the Act and whether the Landlord had complied with the duty imposed by Section 14(1)(b).

#### **Findings In Fact**

10. The Committee finds the following facts to be established:-
  - 10.1. On 31 January 2011, the Tenant entered into a lease with the Landlord for the rent of the property. This was an assured lease under the Housing (Scotland) Act 1988. The provisions in Chapter 4 of the Act apply, notwithstanding that the lease was lawfully terminated on 31 October 2011.
  - 10.2. The Tenant duly notified the Landlord of the required works to the property.
  - 10.3. The property is a single storey semi-detached traditional cottage of approximately 120 years of age. The roof is of timber slated construction. The walls are mainly of random stone construction overlaid with roughcast render and dry lined to the internal faces. The floors are mainly of solid concrete. The house is not a listed building.
  - 10.4. The inspection confirmed that the issues identified in the Report from West Highland Timber Preservation remained evident and no repairs as identified therein have been carried out. In addition, the Report makes reference to additional matters not covered in the application before the Committee, namely the repair or replacement of broken or missing slates and while the Committee makes no finding in respect of these matter, it would suggest that attention be paid to these issues.
  - 10.5. In addition to the issues raised in the Report, the Committee found:
    - 10.5.1. High instrumental moisture meter readings indicating rising damp in the floors and walls of the bathroom, kitchen and back bedroom. The bathroom has mould on the walls and the walls were wet to the touch. There was an electric fan heater in the bathroom and an electric heated

towel rail which was reported to have been disconnected, although this was not tested.

10.5.2. There are soil and downpipes in the vicinity of the areas of dampness and these may be contributing to the dampness.

10.5.3. The front door requires repair or replacement to make it wind and watertight. There is a small hole in the bottom of the door and the feet of the door frames are rotten.

10.5.4. The lower part of the bathroom window could not be opened and one of the windows in the kitchen, once opened could not be closed without someone having to go outside and push it back into place. The window of the rear bedroom similarly proved difficult to close once opened. A double glazing unit in the kitchen was misted, indicating a failure of the seal. While not forming part of the application, the Committee would recommend that the windows be fitted with trickle vents to improve ventilation and reduce the risk of condensation.

10.5.5. The Committee was satisfied that the electrical and smoke detector issues raised in the application had been satisfactorily attended to.

#### **Reasons for the decision**

11. The Committee was satisfied on the basis of the inspection and the confirmation by Mr & Mrs Riddell that the work identified as requiring attention in the Report from West Highland Timber Preservation had not been carried out. The Committee considered that the repairs identified should be carried out.
12. The Committee was satisfied from the inspection of the reported areas of dampness that there was evidence of significant areas of apparent rising damp in the walls and floors of the kitchen, bathroom and back bedroom. The Committee considered that the external ground levels and the soil pipes and downpipes may be contributing to this problem. The Committee considered that this issue be further investigated and remedial work be carried out.
13. The front door and the door frame were seen to be rotten at the bottom. The Committee considers that this issue requires to be rectified to make the property wind and watertight.
14. A number of the windows, namely in the back bedroom and the kitchen were seen to be in need of repair to put them in proper working order.

#### **Decision**

15. The Committee accordingly determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.
16. The Committee proceeded to make a Repairing Standard Enforcement Order as required by section 24(1).
17. The decision of the Committee was unanimous.

#### **Right of Appeal**

**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**

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.

Signed: **D Preston**  
Chairperson

Date...26/3/12