



**REPAIRING STANDARD ENFORCEMENT ORDER**

**BY THE**

**PRIVATE RENTED HOUSING COMMITTEE**

PRHP Ref: prhp/PA3/183/12

**PROPERTY**

Flat 0/2, 11 North Street, Paisley PA3 2BS, registered in the Land Register for Scotland under title number REN2215

**PARTIES**

Sofia Vartaski, formerly residing at the property

**(Tenant)**

and

Mark John Unstead and Sarah Jane Unstead, spouses, residing at 32 Rokeby Gardens, Woodford Green, Essex, per Mrs Janice Ross, Priority Properties, 208 Main Street, Parkhead, Glasgow G78 1SN

**(Landlords)**

1. **WHEREAS** in terms of their decision dated 3 February 2013 the Private Rented Housing Committee ('the Committee') determined that the Landlords have 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 Landlords 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 Landlords to carry out the following repairs ('the Works');-
  - i. To obtain a report from a chartered surveyor or suitably qualified damp and timber specialist who is accredited by an appropriate professional body and covered by adequate professional indemnity insurance, which report will address the issues clearly evident to the committee at the time of its inspection in the eastmost gable wall of the property, and which comprehensively covers the issues of rising and penetrating dampness in the property. The report should identify what works are necessary to rectify these defects.
  - ii. To lodge a copy of the report and its recommendations with the office of the Private Rented Housing Panel within a period of 6 weeks from the date of service of this Order.
  - iii. To carry out fully all works as a required to address the issues identified for the elimination of the damp and water penetration and resultant damage to the property.
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 12 weeks 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 consisting of this and the preceding two pages are subscribed as follows:-

D Preston

.....Chairman

3.2.13

.....Date of Signing

OBAJ

.....Place of Signing

S Preston

.....Witness

SNEILA GUZAROSH PRESTON  
.....Name

WESTBANK .....Address

DUNCAN ROAD

OBAJ



## **PRIVATE RENTED HOUSING PANEL**

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

#### **THE PROPERTY**

**Flat 0/2, 11 North Street, Paisley PA3 2BS registered in the Land Register for  
Scotland under Title Number REN2215 ("the Property")**

#### **THE PARTIES**

**Sofia Vartsaki, residing at the property ("the Tenant")**

**Mark John Unstead and Sarah Jane Unstead, spouses, residing at 32 Rokeby  
Gardens, Woodford Green, Essex, per Ms Janice Ross, Priority Properties, 208  
Main Street, Barrhead, Glasgow G78 1SN ("the Landlord")**

**PRHP Reference: PRHP/PA3/183/12**

**The Committee, having made such enquiries as are 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 (hereinafter referred to as "the Act") in relation to the property, determined that the Landlords have failed to comply with that duty and that the Property accordingly fails to meet the repairing standard as defined in section 13 of the Act.**

#### **Background**

- 1. By application dated 19 July 2012 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 stated that the Tenant considered that the Landlord had failed to comply with their duty to ensure that the house meets the repairing standard and in particular that the Landlord had failed to ensure that:-
  - The house is wind and watertight and in all other respects reasonably fit for human habitation.
3. In particular the Tenant complained that the living room wall was not watertight. A damp patch of 2.0 metres by 0.5 metres had not been fixed since February despite assurances by Priority Properties that this would be fixed within weeks and by the end of February. The patch became significantly damper on rainy days and the wall was leaking water on persistently rainy weeks.
4. By Notice of Referral dated 5 October 2012 the President of the Private Rented Housing Panel intimated a decision to refer the application under Section 22 (1) of the Act to a Private Rented Housing Committee ("the Committee).
5. The Committee comprised: Mr. David M Preston, Legal Member, Mr. Kingsley Bruce, Surveyor Member and Mr. Scott Campbell, Housing Member.
6. The Committee served Notification of Inspection and Hearing dated 13 November 2012 under and in terms of Schedule 2, Paragraph 1 of the Act upon both the Landlord and the Tenant advising that an Inspection and Hearing would take place on 4 December 2012.
7. The Committee inspected the Property on the morning of 4 December 2012. The Tenant and Ms Ross on behalf of the Landlord were present at the inspection
8. Following the inspection of the Property the Committee held a hearing at the offices of Private Rented Housing Panel at which the Tenant and Ms Ross appeared and gave oral evidence.
9. In addition to the oral evidence, the written and documentary evidence considered by the Committee comprised:
  - Application dated 19 July 2012
  - Copy Lease between the Parties dated 14 February 2012
  - Copy email correspondence between the Parties from March to August 2012
  - Written representations by the Tenant dated 10 October 2012
  - Written representations from the Landlord's agent dated 25 October 2012
  - Estimates from: Alliance Timber & Damp Specialists Ltd dated 22 February 2012, Wise Property Care dated 17 May 2012, Lambert Contracts Ltd dated 8 October 2012 Hugh Scott Builders & Slaters Ltd dated 20 July 2012 and Archibald Shaw & Sons dated 9 August 2012.

10. 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).

#### **Inspection:**

11. The inspection revealed that the property is a ground floor flat in a four storey tenement block. Adjacent to the gable wall of the property is a builder's yard. There was evidence that material had been stored against the gable, although it had been moved back to allow access to contractors who appeared to have carried out work to the external gable by rendering and painting it as detailed in the estimate from Lambert Contracts Ltd dated 8 October 2012. The area which appeared to have been rendered and painted was approximately the equivalent area to where the plaster had been removed internally. It extended to about the height of the ground floor of the tenement and above which was brickwork construction. It appeared that a building may at one time have been erected on the face of the gable wall. An existing building had been erected on the gable wall towards the rear of the property.
12. The Committee had no information as to the nature of the materials which had been stored against the gable.
13. Internally the plaster had been stripped from the gable wall in the living room exposing the brick work which gave high damp readings on an electronic moisture meter and crumbled to the touch. The Committee considered that the damp readings may have been distorted by the effect of salts. The Committee also noted higher than ordinarily acceptable damp readings on the electronic moisture meter. There was evidence that a damp proof course ("dpc") had been installed at some time in the past which indicated that there had been previous problems with rising damp in that vicinity. Ms Ross confirmed that a dpc had previously been installed by Wise Property Care in 2007.
14. The Committee noted that the ground level on the outside of the gable wall in the builder's yard was significantly higher than the level of the dpc internally and that there was no evidence of any attempt to install tanking or a vertical damp proof barrier.
15. In any event the Committee did not consider that the described problem of the damp patch at chest height was consistent with rising damp, although the Committee considered that may be a contributory factor to the current problems.

#### **Hearing**

16. The Tenant confirmed the information in the application and supporting documents that when she moved into the property in February 2012 there was a patch of damp on the living room wall at about chest height measuring approximately 2m x 0.5m.

The dampness became worse during periods of heavy rain. The Tenant advised that she had been unwell as a direct result of the condition in the property and that she had found it necessary to move out of the flat and she was currently staying with a friend, although she returned each day to collect clothing etc.

17. Ms Ross on behalf of the Landlord acknowledged the problem. The Landlord had advised her that he understood that a dpc had been installed a number of years ago by Wise Property Care and therefore considered that the current problem was not related to that. The Landlord had therefore instructed the agents to obtain reports and estimates, which had been done. In that connection the plasterwork had been removed to expose the wall for assessment. In addition the property factors, Hacking & Patterson had instructed reports and estimates.
18. Ms Ross confirmed the Landlord's position and outlined the steps taken to obtain reports on the problem and the steps taken to address it. She explained that there had been difficulties and delays which arose from the involvement of the property factors and the responsibility for the problem. However, the plasterwork had been removed in an effort to identify the problem. It had originally been thought that there may have been water ingress through the uncapped chimneys, which had been made worse by the excessively wet weather. However the contractors from whom the estimates had been obtained, while not all in full agreement as to the cause of the problems considered that the problem was more likely related to the gable wall. She advised that Lambert contracts Ltd had been appointed and had carried out the external work as per their estimate and had installed the de-humidifier about one week previously. They considered that a further week would be required before they could re-assess the position and report further.
19. Ms Ross advised that she had now clarified with the Tenant that her deposit would be returned and that arrears of rent would not be pursued as a result of the severity of the problems which had effectively rendered the property uninhabitable. The Tenant and Ms Ross agreed that they would resolve these issues between them as it was not a matter for the Committee at this stage.

### **Decision**

20. The Committee noted that the reports and estimates which had been obtained were produced by contractors tendering for the work and were not independent survey reports. It also acknowledged that the Landlord had attempted to address the problems and had taken reasonable steps to that end. It was mindful that: the work was only partially complete at the time of the inspection, the contractor had not guaranteed that the work would successfully resolve the dampness and that it amounted to a recommendation. Accordingly the Committee considered that consideration of the application should be continued for a period of time to enable the effectiveness of the work to be evaluated. It considered that a period of four weeks would be reasonable to allow the property to be dried out and thereafter monitored to ensure that the problem had been addressed to render the property fit for habitation.

21. Following service of the Direction the Landlord's agents submitted an email dated 16 January 2013 from Stuart Arbuckle, surveyor of Lambert Contracts Ltd which advised that following the work which had been carried out by them, there were no signs of improvement in saturation and the walls were still damp. Further work was recommended by him to be carried out in an effort to identify the source of water ingress. The Committee considered that further and more extensive investigations into the cause of the problems are necessary and require to be carried out, following upon which further work will be required.

22. The Committee considered whether further continuation of the application would be appropriate or whether a Repairing Standard Enforcement Order (RSEO) should be issued. In view of the nature of the problems evident in the property and the potential harm to the health, safety or welfare of any occupant of the property it considered that a further continuation would serve no practical benefit and that a RSEO should be issued. Accordingly it determined to issue a RSEO.

23. The decision of the Committee was unanimous.

**D Preston**

..... Chairperson

3.2.13

.....Date





## **PRIVATE RENTED HOUSING PANEL**

### **MINUTE OF CONTINUATION TO A DETERMINATION, BEING A DECISION UNDER SCHEDULE 2, PARA 7 (3) OF THE HOUSING (SCOTLAND) ACT 2006**

#### **THE PROPERTY**

**Flat 0/2, 11 North Street, Paisley PA3 2BS registered in the Land Register for  
Scotland under Title Number REN2215 ("the Property")**

#### **THE PARTIES**

**Sofia Vartsaki, residing at the property ("the Tenant")**

**Mark John Unstead and Sarah Jane Unstead, spouses, residing at 32 Rokeby  
Gardens, Woodford Green, Essex, per Ms Janice Ross, Priority Properties, 208  
Main Street, Barrhead, Glasgow G78 1SN ("the Landlord")**

**PRHP Reference: PRHP/PA3/183/12**

**24 January 2013**

**Committee Members: - David Preston (Chairperson); Mr. Kingsley Bruce (Surveyor);  
Mr. Scott Campbell (Housing Member)**

#### **Decision**

**Having been advised by the Landlord's representative that the Tenant left the  
property on 31 December 2012 as a result of which the tenancy has been lawfully  
terminated, it follows that the Tenant is treated as having withdrawn the  
application in terms of Schedule 2 Paragraph 7 (1) of the Housing (Scotland) Act  
2006. The Private Rented Housing Committee then considered the application and  
whether it should be determined or abandoned, all in terms of Schedule 2  
Paragraph 7 (3) of the said Act;**

**Reasons**

In making its determination the Committee was mindful of the fact that following the inspection of the property on 4 December 2012 the Committee was satisfied that the repairs which require to be carried out to the Property are likely to raise health and safety issues for occupants of the property. In particular the problems in the Property in respect of which repairs were identified as being necessary involve issues relating to extensive and serious problems arising from water ingress and dampness. Accordingly the Committee decided that it should continue to determine the application on public interest grounds due to the nature of the alleged repairs.

**D Preston**  
.....Chairperson

**3.2.13**.....Date