



**REPAIRING STANDARD ENFORCEMENT ORDER**

**BY THE**

**PRIVATE RENTED HOUSING COMMITTEE**

PRHP Ref: prhp/G76/213/11

**PROPERTY**

3 Old Playfield Road, Glasgow G76 9BT registered in the Land Register for Scotland under title number LAN157733

**PARTIES**

THOMAS SMART, residing sometime at the property.

**Tenant**

and

ALAN AITKEN, 22 Milnpark Street, Glasgow G41 1BB

**Landlord**

and

PAULA MARRIOT, Flat 4201 Baguoi Village, Hong Kong, JOANNE AITKEN, 9 Stonefield Avenue, Glasgow G12 0JF and ANDREW AITKEN, 174 Farmers Close, Witney, Oxon OX28 1NS

**Registered Proprietors**

1. **WHEREAS** in terms of their decision dated 15 June 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 to 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 is also to be 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(s) to carry out the following repairs ('the Works'):-
  1. To obtain an up to date gas safety certificate from a suitably qualified Gas Safe Engineer covering the gas installations and appliances at the property.
  2. To obtain an up to date electrical installation inspection report from a suitably qualified electrician covering the electrical system including a report on the provision of smoke detectors
4. The Committee **HEREBY FURTHER ORDERS** that the Works specified in this Order must be carried out and the certificates delivered to the Committee before the **Completion Date** of 2 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 consisting of this and the preceding pages are subscribed as follows:-

D Preston

..... Chairman  
~~.....~~  
GLASGOW Place  
..... Date of Signing

21/6/12 DATE  
..... Place of Signing

I MacLean

..... Witness

I MACLEAN Name

EUROPA BUILDING Address

650 ARGYLE ST

GLASGOW

G2 8LH



## 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

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Registered Proprietors

PRHP Reference: prhp/G76/213/11

#### 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 property, and taking account of the representation by the Landlord as well as his 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 9 December 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 he 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:-
  - The house is wind and watertight and in all other respects reasonably fit for human habitation.
  - The structure and exterior of the house (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order.
  - 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.
  - Any fixtures, fittings and appliances provided by the Landlord(s) under the tenancy are in a reasonable state of repair and in proper working order.
  - The house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.
3. In particular the Tenant complained that:
  - There were no working smoke alarms.
  - There was no gas or electrical safety certificates.
  - The upstairs toilet was leaking.
  - The downstairs bath leaks.
  - The floors are soaking causing dampness in downstairs bedroom, bathroom and the kitchen.
  - The front door jams, causing the handle to break.
  - The boiler is broken.
  - A radiator leak in the front bedroom causing water on the living room ceiling.
  - A water leak in the kitchen wall from upstairs bathroom.
4. By Notice of Referral dated 20 January 2012 the President of the Private Rented Housing Panel ("the President") intimated a decision to refer the application under Section 22 (1) of the Act to a Private Rented Housing Committee ("the Committee").

The Committee comprised the following members:

Mr. David M Preston, Legal Member  
Mr. Kingsley Bruce, Surveyor Member  
Mrs. Susan Brown, Housing Member

5. On 12 January 2012, the President received information to the effect that the tenancy had been lawfully terminated and that the Tenant had removed from the property and issued a Minute of Continuation dated 20 January 2012 in terms of Schedule 2 Paragraph 7(2) of the Act.
6. On 20 January 2012 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 should provide an up to date gas safety certificate from a Gas Safe Engineer covering the gas installations and appliances at the property.

An up to date periodic electrical installation inspection report from a qualified electrician covering the electrical system including a report on the provision of smoke detectors should also be provided."

In response to that Direction, the Landlord provided a copy Gas Safety Certificate dated 8 December 2009 and a copy receipt for a full gas safety and soundness certificate test and certificate dated 9 December 2010. He explained that he had been advised by Glasgow City Council that a periodic electrical inspection was not required for the property as no electrical appliances were provided under the lease.

7. The Committee served Notification of Inspection and Hearing under and in terms of Schedule 2, Paragraph 1 of the Act on the Landlord advising that an Inspection and hearing would take place on 15 June 2012 at 10.00 with a Hearing thereafter.
8. The Committee inspected the Property on the morning of 15 June 2012. The Landlord was present throughout. Prior to the inspection the Landlord had advised that he would be unable to attend the scheduled hearing. As the property was unoccupied and in the absence of a tenant, the Committee agreed to hear representations by the Landlord at the Property at the time of the inspection.
9. The Committee considered the application and copy correspondence from the Tenant and the correspondence from the Landlord dated 25 January, 7 February, 9 and 14 May 2012 as well as his oral representations.

#### **Summary of issues**

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).

#### **Findings in Fact**

11. The Committee finds the following facts to be established:-
  - 11.1. On 29 December 2010 the Tenant entered into a lease with the Landlord for the rent of the property. This is an assured lease under the Housing (Scotland) Act 1988. The provisions in Chapter 4 of the Act apply.
  - 11.2. The tenant duly notified the Landlord of the required works to the property as required by the Act.

- 11.3. The property is a semi-detached former local authority house, built around 1950 and comprises five rooms, kitchen and two bathrooms. The house is not a listed building.
- 11.4. At the time of the inspection the property was undergoing extensive renovation and re-decoration by the Landlord who advised that it was to be sold. He explained that he had transferred the title to the property to his children in 2011 and that they had decided to sell now that the tenancy had come to an end. It was not intended that the property be re-let.
- 11.5. The inspection revealed:
- There are no working smoke alarms installed in the property.
  - There is no gas or electrical safety certificate.
  - The upstairs toilet had been removed and was to be replaced after completion of new tiling and decoration.
  - The downstairs bathroom had been redecorated and tiled and new sealant had been inserted around the bath.
  - There was no evidence of wet floors. The Landlord advised that the bath had been leaking and that the water had penetrated to the bedroom but with the new seals, this had been resolved.
  - The front door was still defective. The Landlord advised that when the Tenant removed from the property he had locked the doors in such a way as to prevent access resulting in the need to break in. the door still required to be fixed.
  - In relation to the boiler, the Landlord explained that the outlet cock had been slightly open which had prevented the system from maintaining pressure. This had been resolved and the boiler was now working. The Committee was not qualified to confirm that the central heating system was in proper working order, although the Landlord did demonstrate that the boiler fired up. However the gas supply was not turned on.
  - There was no evidence of a radiator leak in the front bedroom nor of water on the living room ceiling, although the Landlord pointed out a new patch which had been applied in the ceiling..
  - There was no evidence of a water leak in the kitchen from the upstairs bathroom. There were signs that there had been mould in the kitchen but there was no evidence of dampness. The Landlord explained that he believed that the tenant had attempted to use the exhaust from a tumble drier to heat the kitchen resulting in excessive condensation. However due to the redecoration there was, at the time of the inspection, no evidence of water or dampness. Readings taken using an electronic moisture meter did not reveal any indication of ongoing or structural dampness.

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

12. The Committee was conscious of the fact that the landlord stated that the property was to be sold and that the present owners had no intention to re-let it. However it considered that as the application had been made raising issues relating to gas and electric safety certificates and smoke detectors it had a duty to proceed. In the event that the present owners changed their minds for any reason and decided to re-let or if a new proprietor intended to let the property, then the necessary safety certificates would be required.

13. The Committee was of the view that there would be no prejudice to the Landlord or the proprietors in ordering production of safety certificates in respect of the gas and electrical systems and smoke detectors since they would be of benefit to the proprietors in relation to the sale of the property.

**Decision**

14. The Committee accordingly determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act insofar as up to date gas and electrical safety certificates covering the provision of adequate smoke detectors are required in respect of the property.

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

16. 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.

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

Date.. 21/6/12..