



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

Ref: PRHP/PA19/40/12

Re: Property at Flat G/2, 19 Cardwell Road, Gourock PA19 1UG ("the Property")

Title Number: REN53225

The Parties:-

MR THOMAS RODGERS, residing at Flat G/2, 19 Cardwell Road, Gourock PA19 1UG ("the Tenant")

MR DENNIS GEORGE per his agents CASTLE ESTATES, 14 Union Street, Greenock PA16 8JJ ("the Landlord")

**NOTICE TO MR DENNIS GEORGE per his agents CASTLE ESTATES, 14 Union Street,
Greenock PA16 8JJ**

Whereas in terms of their decision dated 8th June 2012, the Private Rented Housing Committee determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 and in particular that the Landlord had failed to ensure that:-

- (a) 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 Section 13 (1) (c).
- (b) The fittings, fixtures and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order Section 13 (1) (d).

The Private Rented Housing Committee now requires the Landlord to carry out such work as is necessary for installing a suitable alternative and/or replacement gas fired permanent room heater within 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 8 weeks from the date of this notice.

The Private Rented Housing Committee further order that any damage caused by the carrying out of the works required in pursuance of this notice are made good by the Landlord.

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.

Signed **A Cowan** Date: 8th June 2012
Chairperson

C Millar Witness

Carol Anne Millar

7 West George Street, Glasgow G2 1BA



Determination by Private Rented Housing Committee

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

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MR DENNIS GEORGE per his agents CASTLE ESTATES, 14 Union Street, Greenock PA16 8JJ ("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 concerned, and taking account of the evidence led by both the Tenant and the Landlord at the hearing, determined that the Landlord has failed to comply with the duty imposed by Section 14 (1) (b) of the Act.

Background

- 1 By application dated 26th January 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.
- 2 The application by the Tenant stated the Tenant considered that the Landlord had failed to comply with their duty to ensure that the house meets the Repairing Standard and the Tenant brought forward the following alleged breaches:-
 - (a) There is condensation dampness throughout the property due to inadequate facilities for space heating.
 - (b) The gas fire within the property has been condemned and labelled as unsafe for use.
- 3 The Private Rented Housing Committee served Notice of Referral dated 28th February 2012 under Section 22(1) of the Housing Scotland Act 2006 on both the Landlord and the Tenant.

- 4 Both the Landlord and the Tenant were advised that the Committee intended to inspect the property on the morning of 23rd April 2012 and to thereafter hold a hearing, as to the merits of the application, on the same date.
- 5 The Committee proceeded with the inspection and the hearing on 23rd April 2012. The hearing and inspection were both attended by the Tenant who was accompanied by his partner Eleanor Bristow. The Landlord was represented at the hearing by Mr Neil Woodhead, Chartered Surveyor of Castle Estate Residential Letting Agents, who are the agents acting on behalf of the Landlord.

The hearing was held at the Gamble Halls, 44 Shore Street, Gourrock PA19 1RG, immediately after the inspection on the same day.

The Inspection

- 6 At the inspection the Committee noted the following points:-
 - (a) There was some evidence of dampness within the property. The Tenant demonstrated some clothing which appeared to have been affected by dampness. There was no evidence of particular dampness on the wall or ceiling of the property.
 - (b) The Committee noted the position of the gas fire which was situated in the living room of the property. The Committee did not test or attempt to operate the gas fire.

The Hearing

- 7 At the hearing the Committee heard evidence from both the Tenant and the Landlord. In summary the Tenant's evidence was that at the time he took occupancy of the property there was a working gas fire in the living room. That fire has been condemned by a gas service operative on or around November 2007. Since that time the Tenant had made various attempts to have the Landlord address the issue and to provide a new fire. The Landlord had provided halogen heaters as alternative forms of heating.

The Landlord confirmed that the current gas fire had been condemned by a gas service operative as it did not comply with current regulations of standard. It was understood that the flue for the fire was not suitable for its current purpose and the bridges within the chimney above the fire may have collapsed. It was the Landlord's position that he had offered to install alternative heaters, but the Tenant had declined to accept either of these alternatives.

Decision

- 8 Having inspected the property and having considered the evidence heard at the hearing the Committee determined that:-
 - (a) The gas fire within the living room of the property (as a fixture and appliance provided by the Landlord under the tenancy and as an installation provided for space heating by the Landlord under the tenancy) was not in a reasonable state of repair or in proper working order
 - (b) Whilst there was some evidence that the property has in the past suffered from dampness the committee were not satisfied that there was any conclusive evidence of the cause or source of such dampness.
- 9 Having determined that issues identified in Para 8(a) were a failure of the repairing standard the Committee accordingly further determined the Landlords had failed to comply with the duty imposed by Section 14 (1) (b) of the Act.

- 10 The Committee proceeded to make a Repairing Standard Enforcement Order as required by Section 24 (2) of the Act.
- 11 The decision of the Committee was unanimous.

Right of Appeal

- 12 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

- 13 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 **A Cowan** Date: 8th June 2012
Chairperson

C Millar Witness

Carol Anne Millar

7 West George Street, Glasgow G2 1BA