



**REPAIRING STANDARD ENFORCEMENT ORDER**

**BY THE**

**PRIVATE RENTED HOUSING COMMITTEE**

PRHP Ref: prhp/G12/41/12

**PROPERTY**

61, Kirklee Road, Glasgow G12 0SS registered in the Land Register for Scotland under title number GLA159805

**PARTIES**

Ms Angela Iles and Mr James McDonald, residing at the Property  
and

Tenants

Anthony Thornton and Mrs Deborah Thornton, formerly residing at the Property and now at 40 Marchfield,  
Milngavie,

Landlords

1. **WHEREAS** in terms of their decision dated 28 May 2012 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'):-

3.1 To repair the windows in the Property to the extent that at least one sash window in each room is capable of opening and closing to provide adequate ventilation, and to draught proof all the windows in the property.

3.2 To fit a kicking plate beneath the dishwasher in the kitchen.

3.3 To obtain a report on the fire and vent in the lounge from a suitably qualified Gas Safe engineer and to carry out the recommendations in such a report.

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 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

15 June 2012

Date of Signing

Glasgow

Place of Signing

I MacLean

Witness

I. MACLEAN

Name

EUROPA BUILDING

Address

450 ARGYLE ST

GLASGOW

G2 4TZ



## **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:**

**61, Kirklee Road, Glasgow G12 0SS**

#### **PARTIES:**

**Ms Angela Iles and Mr James McDonald, residing at the Property  
("the Tenants")**

**Anthony Thornton and Mrs Deborah Thornton, formerly residing at the  
Property and now at 40 Marchfield, Milngavie, per Mrs Deborah Thornton.  
("the Landlords")**

**PRHP Reference: prhp/G12/41/12**

#### **Decision**

**The Committee, having made such enquiries as is fit for the purposes of determining whether the Landlords have complied with the duty imposed by Section 14 (1)(b) in relation to the house concerned, determined that the Landlords have 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 21 February 2012 the Tenants applied to the Private Rented Housing Panel for a determination of whether the Landlords 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 Tenants stated that they considered that the Landlords had failed to comply with their duty to ensure that the house meets the repairing standard and in particular that the Landlords had failed to ensure that:-**

- The house is wind and watertight and in all other respects reasonably fit for human habitation.
  - Any fixtures, fittings and appliances provided by the Landlords under the tenancy are in a reasonable state of repair and in proper working order
3. In particular the Tenants complained that:
- 3.1. Significant draughts come through windows, behind the dishwasher and from the fireplace chimney.
  - 3.2. Windows do not open.
  - 3.3. One of the showers leaks.
4. By Notice of Referral dated 9 March 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).

The Committee comprised the following members:

Mr. David M Preston, Legal Member  
Mr. Mike Links, Surveyor Member  
Mr. Chris Harvey, Housing Member

5. The Committee served Notification of Inspection and Hearing under and in terms of Schedule 2, Paragraph 1 of the Act upon both the Landlords and the Tenants advising that an Inspection and Hearing would take place on 28 May 2012 at 1045 with a Hearing thereafter. Following service of the Notice of Referral neither party made written representations to the Committee.
6. The Committee inspected the Property on the morning of 28 May 2012. Ms Iles on behalf of the Tenants was present. The Landlords were neither present nor represented.
7. Following the inspection of the Property the Committee held a hearing at Europa Building, 450 Argyle Street, Glasgow. The Committee considered the written evidence submitted as neither the Landlords nor the Tenants attended the Hearing, nor were they represented.
8. The written and documentary evidence comprised:
- Copy letter from Tenants to landlords dated 12 February 2012.
  - Copy letter from Landlords to Tenants dated 16 February 2012.
  - Copy lease between the parties dated 24 November 2011.
9. No written or documentary evidence was submitted by the Landlords

#### **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 24 November 2011 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. The property is a two storey end terrace Victorian sandstone and slated house dating from about 1875 with garden to front, side and rear. There is clear evidence of settlement in the property which appears to have been attended to relatively recently. There is an apparent bulge in the rear wall in which a steel brace has been attached. There has apparently been movement in the stonework of the corner turret where significant buttressing appears to have been installed recently. Internally the floors in general are off level and there is distortion in windows and frames which is most apparent but not confined to those in the corner turret on the upper floor.
- 11.3. The inspection revealed:
  - 11.3.1. The windows throughout appeared to have been affected by the settlement resulting in distortion which prevented a number of them from being able to be properly closed, which gave rise to significant gaps between the sash and the casement. Although not evident at the inspection due to the calm weather, the gaps would cause significant draughts as reported by the Tenants. Accordingly the Committee finds that the property fails to meet the repairing standard in this regard.
  - 11.3.2. There is no kicking plate beneath the dishwasher in the kitchen, which, in the absence of any contrary evidence, the Committee finds is likely to result in the draught complained of by the Tenants, although no draught was detected due to the weather conditions at the time of the inspection.
  - 11.3.3. Ms Iles reported that the fire in the lounge was effectively inoperable due to downdraught from the chimney. This was not apparent at inspection due to the weather conditions. She reported that they had put cardboard in the flue vent to prevent the draught which was a matter of concern to the Committee as the fire was a coal effect gas fire, which should be properly ventilated as a matter of safety. The cardboard had been removed from the vent at the time of inspection.
  - 11.3.4. A number of the windows throughout the property could not be opened. It was not clear to the Committee whether this was as a result of the settlement or from painting over.
  - 11.3.5. The Committee was advised that the shower referred to in the application as leaking had been fixed by the District Council. The Committee noted that the letter from the Landlords dated 16 February referred to a further leaking shower, but as this had not been referred to in the application the Committee did not consider that matter further.

**Reasons for the decision**

12. The Committee finds that the property fails to meet the repairing standard in respect that it is not wind and watertight insofar as the ill fitting windows result in excessive draughts. The Committee also finds that the windows are not in a reasonable state of repair. However having regard to the age and character of the property, the Committee finds that at least one window in each room should be capable of being opened and closed in such a way and to such an extent that ventilation can be provided without excessive draughts.
13. The provision of a kicking plate beneath the dishwasher would prevent the excessive draught complained of.
14. In view of the inability of the Committee to establish the situation in relation to the down draught from the fireplace in the lounge, and in view of the presence of a gas flame fire, the Committee determines that a Gas Safe engineer should inspect and report on the effectiveness of the flue vent and the terms of such report should be implemented by the landlords.

#### **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 15/6/12