



REPAIRING STANDARD ENFORCEMENT ORDER

BY THE

PRIVATE RENTED HOUSING COMMITTEE

PRHP Ref: prhpG73/7/12

PROPERTY

32 Castlefern Road, Rutherglen, Glasgow G73 4AX registered in the Land Register for Scotland under title number LAN64335

PARTIES

Jans Jeroen Deen and Mrs Bettie Deen, residing at the property

Tenant

and

Miss Sheetal Revis and Mr Tony Neary, c/o 24-7 Property Letting Limited, 1257 Shettleston road, Glasgow G32 7NG, represented by Mr Kenneth and Mrs Cynthia Revis, 34 Don Drive, Paisley PA2 0AF

Landlord

1. **WHEREAS** in terms of their decision dated 8 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 inspect and make good any damage to the insulation in the roof space of the property.
 2. To effect necessary inspection and repair of the water damage in the rear bedroom on the first floor of 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 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 typewritten consisting of this and the preceding two pages are subscribed as follows:-

David Preston

Chairman

12/3/2012

Date of Signing

OBAN.

Place of Signing

Hugh McLean

Witness

HUGH McLEAN

Name

TORRIDON

Address

BENVOLLIN Rd

OBAN

PA34 5EE



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:

**32 Castlefern Road, Rutherglen, Glasgow G73 4AX (hereinafter referred to as
"the Property")**

PARTIES

**Jans Jeroen Deen and Mrs Bettie Deen, residing at the property (hereinafter
referred to as "the Tenants")**

and

**Miss Sheetal Revis and Mr Tony Neary, c/o 24-7 Property Letting Limited, 1257
Shettleston road, Glasgow G32 7NG, represented by Mr Kenneth and Mrs
Cynthia Revis, 34 Don Drive, Paisley PA2 0AF (hereinafter referred to as "the
Landlords")**

PRHP Reference: PRHP/G73/7/12

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 both the Landlord and the Tenant 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 6 January 2012 the Tenants applied to the Private Rented
Housing Panel for a determination of whether the Landlord(s) 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(s) stated that the Tenant(s) considered that the Landlord(s) had failed to comply with his/their duty to ensure that the house meets the repairing standard and in particular that the Landlord(s) 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.

3. By letter dated 19 January 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 comprised the following members:

Mr. David M Preston, Legal Member
Mr. George Campbell, Surveyor Member
Mr. Scott Campbell, Housing Member

4. Following service of the Notice of Referral the Tenants made no further written representations to the Committee. The Landlords by note dated 23 January 2012, made written representations to the Committee.
5. The Private Rented Housing Committee inspected the Property on the morning of 8 March 2012. The Tenants were present and Mr Kenneth Revis was present on behalf of the Landlords.
6. Following the inspection of the Property the Private Rented Housing Committee held a hearing at Europa Building, 450 Argyle Street, Glasgow. The Committee considered the written evidence submitted, and heard evidence and submissions from both the Tenants and the Landlords. The Tenants, Mr Kenneth and Mrs Cynthia Revis attended the hearing.
7. In addition to the representations in the application form, the written and documentary evidence submitted by the Tenants comprised:
 - Copy Lease between the parties dated 30 July 2011 with annexes
 - Copy emails between the Tenants and Landlord's agent, Fiona Waldron dated 4th and 2 emails dated 5 January 2012.
8. The Landlords submitted no written and documentary evidence.
9. At the outset it was noted that a repair had been carried out to the roof of the property in early February and the Tenants reported that since then, there did not appear to have been any further ingress of water. However the damage which had been caused to the fabric of the property including re-decoration of the affected bedroom had not been carried out. It was reported that the Landlord had intended to have the work carried out on 19 March., but the Tenants had objected on the basis that they were removing from the property after that date in response to a Notice to Quit which had been received the day after their

application. Accordingly they could not give access to tradesmen to carry out the work.

10. The Tenants expressed their concern at the handling of the issue by the Landlords. The problem had been reported on 8 December 2011 after the damage had been caused by severe weather. They had chased up the Landlord's agent, Ms Waldron on 14 December and had been told in the email of 5 January that the Landlords advised that no action was required. A builder did visit to inspect the property but had done so in the dark and had not carried out a proper inspection. They advised that they had spent considerable time and effort in chasing Ms Waldron to have the repairs completed which had not occurred until early February. The Tenants were concerned that they had lost the use and enjoyment of a substantial part of the property. The committee advised that it had no powers in relation to any loss of enjoyment and explained that its remit was confined to a determination in relation to the repairing standard.
11. On behalf of the Landlords, Mr Revis advised that his daughter had referred the issue to her insurance company. He explained that his daughter was not a professional landlord and that she had appointed an agent to handle matters on her behalf. Circumstances had arisen in her personal life which had required her to move from the property and in view of the state of the property market she had rented it as opposed to selling. He further explained that neither a full and proper inspection nor the repair work had been possible due to the severe weather conditions prevailing. When the work had been authorised by the insurance company it had been attended to. The committee advised that whether or not she was a professional landlord, she was obliged to fulfil the statutory duties laid out in the Housing (Scotland) Act 2006 and the function of the Committee was to determine whether she had done so.

Summary of issues

12. 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

13. The Committee finds the following facts to be established:-
 - 13.1. On 30 July 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.
 - 13.2. The tenant duly notified the Landlord on 8 December 2011 of the required works to the property following storm damage.
 - 13.3. The property is a semi detached dwelling house with garden areas to front and rear. The house is not a listed building.
 - 13.4. The inspection revealed that a repair had been carried out to the ridging which had been damaged in severe weather. The rear bedroom on the first floor showed signs of damaged wallpaper due to water damage. The Tenants reported that the water had penetrated the roof space and had damaged the insulation in the loft.

Reasons for the decision

14. While the Committee was satisfied that the necessary repair had been carried out to the roof, the issues raised in the application relating to the loft insulation and the water damage in the rear bedroom had not been attended to.

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 **David Preston**
Chairperson

Date 12/3/12.....