



**PRIVATE RENTED HOUSING COMMITTEE  
STATEMENT OF REASONS**

**PROPERTY:**

**147 Cumbrae Drive, Tamforhill, Falkirk, FK1 4AP**

**INSPECTION & HEARING**

**13<sup>th</sup> July, 2010**

## **STATEMENT OF REASONS**

### **INTRODUCTION**

1. This is an application dated 19<sup>th</sup> April, 2010 ('the application') made under section 22(1) of the Housing (Scotland) Act 2006 ('the Act') by Mr and Mrs Lee Syme ('the tenants') regarding the property known as and forming 147 Cumbrae Drive, Tamforhill, Falkirk, FK1 4AP ('the property'). The landlord of the property is Sarah Sabir ('the landlord') who resides at 63 Kilsyth Road, Haggs, Bonnybridge, Falkirk. The landlord is represented by her agent, Mr Mohammed Sabir ('the agent').
2. In the application the tenants contend that the landlord has failed to comply with the duty imposed on her by section 14(1)(b) of the Act as the property fails to meet the repairing standard as set out in section 13(1) of the Act.

3. The Committee comprised

Chairman	Mr Steven Walker
Surveyor	Mr Ian Mowat
Housing Member	Mr Scott Campbell

The Committee was assisted by the Clerk to Committee, Mrs Ann Alison.

### **THE DOCUMENTATION**

4. The Committee considered all the documents referred to it by the parties.

### **THE INSPECTION**

5. The Committee inspected the property. The tenant and the landlord's agent were present at the inspection.

### **DESCRIPTION OF THE PROPERTY**

6. The property is a terraced house comprising 3 bedrooms, bathroom, kitchen/dining room, livingroom, downstairs toilet and garden to front and rear. The property is in the middle of Falkirk and close to local amenities.

### **THE HEARING**

7. The hearing took place at the Best Western Park Hotel, Falkirk, on 13<sup>th</sup> July, 2010. The agent and the tenant, Mr. Syme, attended the hearing. The tenants' complaint is that the landlord had failed to meet the repairing standard as detailed in section 4 of the application. In summary, the tenants consider there has been a failure by the landlord to meet the repairing standard on the following matters;-

- (a) Hall floor boards are damp and require repair;**
- (b) Downstairs bathroom is damp and tiling and shelf requires repair;**
- (c) Upstairs bathroom flooring and tiling requires repair;**
- (d) Livingroom window central pane of glass is loose and cornice is damaged and requires repair;**
- (e) Kitchen flooring and units requires repair.**
- (f) Front door is draughty at the lock side and bottom of the door.**

8. The Chairman opened the hearing and advised the tenant to address the Committee on each item of complaint. The Chairman further advised that the agent would then be given an opportunity to respond

on an item by item basis. The parties respective submissions can be summarised as follows:-

**(a) Hall floor boards are damp and require repair;**

The tenant said the floor boards were damp and uneven and needed to be replaced. The agent said he had the damp checked and no damp was found and the floor boards are safe and in an adequate condition.

**(b) Downstairs bathroom is damp and tiling and shelf requires repair;**

The tenant repeated his complaint. The agent said work was carried out to the downstairs bathroom in 2009 and the works are incomplete as the tenant did not allow access.

**(c) Upstairs bathroom flooring and tiling requires repair;**

The tenant repeated the complaints. The agent said he was happy to install laminate flooring in the bathroom and repair the tiling.

**(d) Livingroom window central pane of glass is loose and cornice is damaged and requires repair;**

The tenant repeated his complaint. The agent said he was happy to repair these issues. These complaints were not part of the original reference although the reference was expanded by agreement of the parties.

**(e) Kitchen flooring and units requires repair.**

The tenant repeated the complaints. The agent said he was happy to repair the floor boards and repair/fix the units.

**(f) Front door is draughty at the lock side and bottom of the door.**

The tenant repeated the complaints. The agent said he was happy to repair these issues.

## **THE ACT**

9. Section 14(1)(b) of the Act provides;-

***“14 Landlord's duty to repair and maintain***

*(1) The landlord in a tenancy must ensure that the house meets the repairing standard—*

*(a) at the start of the tenancy, and*

*(b) at all times during the tenancy.”*

10. Section 13 of the Act provides;

***“13 The repairing standard***

*(1) A house meets the repairing standard if—*

*(a) the house is wind and water tight and in all other respects reasonably fit for human habitation,*

*(b) 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,*

*(c) 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,*

*(d) any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order,*

*(e) any furnishings provided by the landlord under the tenancy are capable of being used safely for the purpose for which they are designed, and*

*(f) the house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.”*

## **FINDINGS OF FACT & REASONS**

11. The complaints before the Committee as per the tenants' application and our determinations in relation to this are as follows;-

**(a) Hall floor boards are damp and require repair;**

The Committee is of the view that the damp present in the hall floor boards is a direct consequence of a substantial leak earlier this year and will dry out given time. The Committee determines that the floor boards are warped and accordingly not in a reasonable state of repair and in proper working order.

**(b) Downstairs bathroom is damp and tiling and shelf requires repair;**

The Committee is of the view that the damp present in the downstairs bathroom is a direct consequence of a substantial leak earlier this year and will dry out given time. The Committee determines that the tiling is broken and missing and the shelf above the toilet is loose and accordingly is not in a reasonable state of repair and in proper working order.

**(c) Upstairs bathroom flooring and tiling requires repair;**

The Committee determines that the flooring is warped and tiling is broken and missing in the upstairs toilet and accordingly is not in a reasonable state of repair and in proper working order.

**(d) Livingroom window central pane of glass is loose and cornice is damaged and requires repair;**

Given the agents undertaking to repair these issues, the Committee determines that the livingroom window central pane of glass is loose and also that the cornice is damaged and requires repair and accordingly is not in a reasonable state of repair and in proper working order.

**(e) Kitchen flooring and units requires repair;**

The Committee determines that the kitchen flooring has large holes and is in a poor state of repair as are the units which are also in a poor state of repair and accordingly are not in a reasonable state of repair and in proper working order.

**(f) Front door is draughty at the lock side and bottom of the door.**

Given the agents undertaking to repair these issues, the Committee determines that the front door is draughty at the lock and bottom of the door and requires repair and accordingly is not wind and water tight and in all other respects reasonably fit for human habitation and in a reasonable state of repair and in proper working order.

**SUMMARY OF DECISION**

12. The Committee accordingly determines that the landlord has failed to comply with the duty imposed by section 14(1)(b) of the Act in respect of the complaints.
13. The Committee accordingly makes a Repairing Standard Enforcement Order as required by section 24(1).

**RIGHT OF APPEAL**

14. 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

15. 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.

# S P Walker

Signed  .....

**Steven P Walker**  
**Advocate & Barrister**

**Chairman**  
**Private Rented Housing Committee**

**30<sup>th</sup> July, 2010**



## **REPAIRING STANDARD ENFORCEMENT ORDER**

**BY THE**

**PRIVATE RENTED HOUSING COMMITTEE**

PRHP Ref: FK1/70/10

### **PROPERTY**

**TITLE NUMBER STG3570**

### **PARTIES**

**LEE & KELLYANNE SYME**, residing at 147 Cumbrae Drive, Falkirk, FK1 4AP

**Tenant**

and

**SARAH SABIR**, residing at 63 Kilsyth Road, Haggs, Bonnybridge, Falkirk

**Landlord**

**REPAIRING STANDARD ENFORCEMENT ORDER ('RSEO') AGAINST, SARAH SABIR**, residing at 63 Kilsyth Road, Haggs, Bonnybridge, Falkirk, landlord of the subjects known as and forming 147 Cumbrae Drive, Falkirk, FK1 TITLE NUMBER STG3570.

1. **WHEREAS** in terms of their decision dated 30th July, 2010, 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');-

**(a) Hall floor boards are damp and require repair;**

The floor boards are warped and require repair to ensure they are in a reasonable state of repair and in proper working order.

**(b) Downstairs bathroom is damp and tiling and shelf requires repair;**

The tiling is broken and missing and the shelf above the toilet is loose and requires repair to ensure it is in a reasonable state of repair and in proper working order.

**(c) Upstairs bathroom flooring and tiling requires repair;**

The flooring is warped and tiling is broken and missing in the upstairs toilet and requires repair to ensure it is in a reasonable state of repair and in proper working order.

**(d) Livingroom window central pane of glass is loose and cornice is damaged and requires repair;**

The livingroom window central pane of glass is loose and also the cornice is damaged and requires repair to ensure it is in a reasonable state of repair and in proper working order.

**(e) Kitchen flooring and units requires repair;**

The kitchen flooring has large holes and is in a poor state of repair as are the units which are also in a poor state of repair which requires repair to ensure they are in a reasonable state of repair and in proper working order.

**(f) Front door is draughty at the lock side and bottom of the door.**

The front door is draughty at the lock and bottom of the door and requires repair to ensure it is wind and water tight and in all other respects reasonably fit for human habitation and in a reasonable state of repair and in proper working order.

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 **FOUR 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 three pages are subscribed by me, Steven Peter Walker, Advocate & Barrister, Chairman of the Private Rented Housing Committee, at Edinburgh on 3<sup>rd</sup> August, 2010 before this witness Graeme Henderson, Advocate, Advocates Library, Parliament House, Edinburgh.

**S P Walker**

**G Henderson**

  
**Chairman**

**Witness**