



## Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

prhp Ref: prhp/PA1/194/12

Re : Property at 1/1, 5 Orchard Street, Paisley PA1 1UY ("the Property")

Title No: REN1934

The Parties:-

Mark Alexander Baird, Craigendunton, Waterside, Kilmarnock KA3 6JJ ("the Landlord")

Yvonne Hutchings, 1/1, 5 Orchard Street, Paisley PA1 1UY ("the Tenant")

### NOTICE TO MARK ALEXANDER BAIRD ("the Landlord")

Whereas in terms of their decision dated 13 August 2012, the Private Rented Housing Committee determined that the landlord has failed to comply with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 and in particular that the landlord has failed to ensure that:-

- (a) The house is wind and water tight and in all other respects 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; and
- (c) The installations in the house for the supply of gas and electricity and for sanitation, space heating and heating water are in a reasonable state of repair and in proper working order.

the Private Rented Housing Committee now requires the landlord to carry out such work as is necessary for the purposes of ensuring that the house concerned meets the repairing standard and that any damage caused by the carrying out of any work in terms of this Order is made good.

In particular the Private Rented Housing Committee requires the landlord:-

- (a) to carry out such works as are necessary to replace the missing pane of glass in the living room window and to ensure that the window is made to open and close properly, with any defective window catches being repaired or replaced;
- (b) to investigate the cause of the "give" in the suspended timber floor in the bathroom and carry out such works as are necessary to stabilise the floor; and
- (c) to carry out such repair or replacement to the central heating boiler as is necessary to provide the Property with an adequate hot water supply and central heating and to exhibit a valid Gas Safety Certificate when the work has been carried out.

The Private Rented Housing Committee order that the works specified in this Order must be carried out and completed within the period of 4 weeks from the date of service of this Notice.

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.

In witness whereof these presents typewritten on this page are executed by George Barrie Clark, solicitor, chairperson of the Private Rented Housing Committee at Edinburgh on 13 August 2012 before this witness:-

V Clark

witness

G Clark

chairman

VALERIE ELIZABETH DAVE CLARK  
7 NEWBATH TERRACE, EDINBURGH



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

prhp Ref: prhp/PA1/194/12

Re : Property at Flat 1/1, 5 Orchard Street, Paisley PA1 1UY ("the Property")

The Parties:-

Yvonne Hutchings, 1/1, 5 Orchard Street, Paisley PA1 1UY ("the Tenant")

Mark Alexander Baird, Craigendunton, Waterside, Kilmarnock KA3 6JJ ("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) in relation to the house concerned, determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

### **Background**

1. By application dated 3 May 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 ("the Act").
2. The application by the Tenant stated that the Tenant 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:-
  - (a) the house is wind and watertight and in all other respects 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.
3. By letter dated 22 May 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.
4. The Private Rented Housing Committee served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon both the Landlord and the Tenant.
5. Following service of the Notice of Referral the Tenant made no further written representation to the Committee other than her original application dated 3 May 2012. The Landlord made no written representation to the Committee.
6. The Private Rented Housing Committee inspected the Property on the morning of 13 August 2012. The Tenants and the Landlord were not present during the inspection, but the Committee members were admitted to the Property by the Tenant's partner.

7. Following the inspection of the Property the Private Rented Housing Committee held a hearing at Glasgow. Neither the Tenant nor the Landlord was present or represented at the hearing. The Committee comprised George Clark (chair), Sara Hesp (surveyor) and Susan Brown (housing member).

### **Summary of the Issues**

8. The issues to be determined are whether the Property meets the repairing standard as set out in Section 13 of the Act and whether the Landlord has failed to comply with the duties imposed by Section 14( 1)(b) of the Act.

### **Findings of fact**

9. The Committee finds the following facts to be established:-
  - The tenancy is a Short Assured Tenancy.
  - The Property is a first floor flat in a tenement comprising ground floor business premises and flats on three floors above.
  - The lowest of the three panes of glass in the middle section of the bay window is missing and the window has been boarded up with wood. Daylight can be seen beneath the wooden board, indicating that the window is not wind and water tight.
  - The suspended timber floor in the bathroom is covered with tiles. There are no apparent gaps or holes in the tiling, but there is "give" in the suspended floor to a degree that is unsafe.
  - The central heating boiler, which also controls the water heating, does not function when switched to the "On" position.
  - There is evidence of damp staining in the lower part of the wall adjacent to the window in the bedroom, but, whilst access to the area was limited by heavy furniture, the Committee found no evidence of loose plaster and concluded that the staining was condensation and should be resolved when the Property is properly heated and ventilated. There was further staining on the upper part of the same wall, but the Committee was unable to gain safe access to the rear of the Property as the passageway to the rear external door of the tenement was blocked by a large number of black plastic bags filled with refuse. The Committee could not, therefore, determine the cause of the staining in the upper part of the bedroom wall.
  - High damp readings were taken with a damp meter in a section of the internal wall in the hallway, but there was no evidence of loose plaster and, in the absence of any other explanation, the Committee concluded that the likely cause was condensation as a result of the Property not having had the benefit of heating for some months.
  - There was evidence on the kitchen ceiling of water staining having come from above, but the Committee found no evidence to suggest that there were any continuing leaks.
  - The Committee could find no evidence of a leak at the pipe connecting the cistern to the toilet, but the floorboards to the rear and side of the toilet had some "give". This problem would be attended to when the necessary repairs to the remainder of the flooring in the bathroom are carried out and the Committee would recommend that the seal be checked when this work is being done.

### **Reasons for the decision**

10. The wooden boarding in the window of the sitting room does not meet the repairing standard in that the house is not wind and water tight. In the absence of any statement to the contrary by the Landlord, the Committee accepted the statement by the Tenant in her application that the window has been boarded up for nearly two years. The Committee also accepted the statement in the Tenant's application that the boiler controlling the central heating and water heating systems in the Property had not been operating since the end of March 2012 and found that the installations in the Property for space heating and heating water are not in a reasonable state of repair or in proper working order, so do

not meet the repairing standard. The Committee was also of the view that the bathroom floor is unsafe and that in that respect the structure of the house is not in a reasonable state of repair, so fails to meet the repairing standard.

#### **Decision**

11. The Committee accordingly determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.
12. The Committee proceeded to make a Repairing Standard Enforcement Order as required by section 24(1) of the Act.
13. The decision of the Committee was unanimous.

#### **Right of Appeal**

14. 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**

15. 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.

**G Clark**

Signed ..... Date: 13 August 2012  
Chairperson