



**DETERMINATION BY PRIVATE RENTED HOUSING COMMITTEE re FAILURE  
TO COMPLY**

**STATEMENT OF DECISION OF THE PRIVATE RENTED HOUSING COMMITTEE  
UNDER SECTION 26(1) OF THE HOUSING (SCOTLAND) ACT 2006**

**In connection with**

**Property at 15 Fir View, Calderbank, Airdrie ML6 9SW  
(hereinafter referred to as "the house")**

**MISS LORNA RILEY, residing at 15 Fir View, Calderbank, Airdrie ML6 9SW  
("the Tenant")**

**MR JOHN McGLONE, residing at 12 Tennant Wynd, Bellshill ("the Landlord")**

**Reference PRHP/RP/15/0261**

**Committee - Richard Mill (Chairman) and Andrew Taylor (Surveyor Member)**

**Title Number: LAN148159**

**BACKGROUND**

1. Reference is made to the Determination of the Private Rented Housing Committee ("the Committee") dated 23 December 2015, which decided that the Landlord had failed to comply with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act ("the Act"), and to the Repairing Standard Enforcement Order ("the RSEO") dated 23 December 2015 confirming that the Landlord had failed to ensure the property meets the repairing standard in respect of Sections 13(1)(a), (b), (c) and (d) of the Act.

The RSEO required the Landlord to undertake works as is necessary for the purposes of ensuring that the property concerned meets the Repairing Standard and that any damage caused by the carrying out of any work in terms of the said Order is made good.

In particular the Private Rented Housing Committee required the Landlord:-

1. To produce an up to date gas safety certificate in respect of the property.
2. To produce an up to date Electrical Installation Condition Report (EICR) in respect of the whole property. There are electrical supply faults to the shower

in the bathroom and the electric hob/oven in the kitchen. Any repairs or renewals recommended within the report require to be instructed and completed.

3. To instruct a reputable roofing contractor to survey and report, in writing, upon the condition of the whole roof, including the slates, flashings, valets, gutterings and down pipes; and to obtain a written report in respect of same and to thereafter instruct all works recommended to ensure that the property is wind and water tight.
4. To instruct a qualified gas engineer to provide a written report on the condition of the gas boiler and to ensure that there is sufficient pressure for it to operate satisfactorily without the need to frequently top up the system; or alternatively if it cannot be serviced and repaired, to replace the boiler.
5. To instruct a suitably qualified tradesman to carry out repairs or renewals to the front door of the property and the window at the top of the stairs within the property to ensure that they can be opened and closed effectively and are wind and water tight.
6. To instruct a specialist survey in respect of the damp noted within the property both at ground floor level behind the front door and within the front single bedroom adjoining the living room and for a written report to be produced in respect of the cause and work required to eradicate the damp and any other symptoms identified and to instruct said work and have said work completed. Redecoration should be carried out thereafter.

The Private Rented Housing Committee required that the works specified in the Order must be carried out and completed within 6 weeks from the date of service of the Notice.

2. A re-inspection of the property was undertaken on 8 March 2016 by the Surveyor Member of the Committee. The findings of said re-inspection identified that some of the works required to be undertaken by the Landlord in fulfilment of the Repairing Standard Enforcement Order had been attended to. In particular:-

- i. A Gas Safety inspection was carried out on 23 December 2015 and a copy left with the Tenant on 7 March 2016.
- ii. The shower had been repaired.
- iii. There have been some repairs carried out to the roof, including the fixing of ridge caps and the repair of the leak above the middle bedroom.
- iv. The boiler has been repaired.

3. The re-inspection revealed that there were a number of important works outstanding in respect of which the Landlord had failed to adhere to the Repairing Standard Enforcement Order. In particular:-

- i. No Electrical Installation Condition Report (EICR) had been produced and the electric hob had not been fixed.
- ii. No Roof Report had been produced. A number of slates were still missing and the chimney remained in a poor condition.
- iii. No repairs had been carried out to the front door or the window at the top of the stairs.
- iv. No damp survey had been carried out and the middle bedroom still required to be re-decorated following repair to the leak.

4. A copy of the Re-inspection Report, together with attached photographs, prepared by the Surveyor Member of the committee was issued to parties for comments. The Landlord thereafter advised that additional work had been carried out and that problems had been encountered with access to complete the remainder of the work.

5. The committee decided to fix a further Re-inspection together with a Hearing thereafter in order to determine whether or not the Repairing Standard Enforcement Order had been complied with and whether or not the Repairing Standard Enforcement Order ought to be revoked or, in the alternative, whether the committee should determine that there had been a failure to comply. The Re-inspection was assigned to take place at 10.00 am on 30 June 2016 with a Hearing thereafter at 11.00 am at Airdrie Business Centre.

6. Both the Tenant and the Landlord were personally present at the time of the committee's inspection on 30 June 2016. Reference is made to the accompanying photographs which are referred to for their terms. The committee's inspection revealed:-

- i. The front door to the Property had been replaced in accordance with item 5 of the RSEO. Subsequent damage had been incurred as a consequence of which the door had required remedial repair and was not lockable.
- ii. The window at the top of the stairs still required to be replaced in terms of item 5 of the RSEO.
- iii. The middle bedroom at the front of the Property had been re-decorated following the earlier repair work, including plastering as a consequence of the former roof leak. There was no evidence of damp within the bedroom of the Property.
- iv. The electric hob/oven and the electric shower were in good working order.
- v. The roof seemed in a reasonable condition. There were no obvious signs of slipped slates. The ridge caps appeared to be in place. There was no evidence of leaking rhones. There was no evidence of loose or crumbling masonry around the chimneystack.

7. The Tenant did not attend the Hearing following the inspection. She advised the committee that she did not intend to do so. She had other commitments. The Landlord appeared personally. The six items within the RSEO previously issued were discussed with the Landlord. The nature of the discussions comprised of the following:-
1. A Gas Safety inspection had been undertaken. The relevant Gas Safety Certificate had previously been left in the hands of the Tenant. A photograph of the Certificate had been taken by the surveyor at the time of the re-inspection in March 2015. This was comprised within the photographs attached to the Re-inspection Report prepared then. This requirement had been complied with.
  2. An Electrical Installation Condition Report (EICR) had been prepared. Ruby Electrical Limited had been instructed to carry out same. The Landlord had previously produced this as an attachment to an email sent on 4 May 2016. This had contained reference to two C2 items. One related to the fact that the Property did not have hardwired smoke/heat alarms and additionally raised the fact that there was no earth bond to the gas supply. The RSEO previously issued clearly indicated that all works recommended within the EICR required to be instructed and completed. The Landlord advised that the smoke/heat alarms had been instructed to be installed by the electrical contractor but this work had not yet been undertaken. He expected the work to be completed by the end of July 2016. He advised that the earth bond to the gas supply had been undertaken and completed but was unable to provide any documentary evidence to this effect.
  3. The Landlord produced a handwritten Roof Report dated 29 June 2016 prepared by George Peacock, Slater and Plasterer. This confirmed that the overall condition of the roof was satisfactory and that additionally the condition of the chimneystack was satisfactory.
  4. The Gas Safety Certificate previously issued raised no concerns with the condition of the boiler. No recent complaints have been received in respect of any problems with the boiler.
  5. The Landlord advised that a new window has been ordered to replace the window at the top of the stairs within the Property. He advised that he expected the window to become available and be installed no later than the end of July 2016. He advised that the front door of the Property had been replaced on Wednesday 22 June 2016. On Friday 24 June 2016, the Police had attended at the Tenant's property with a Warrant and had forced entry, thus causing damage to the door. This background information had been confirmed by the Tenant at the time of the committee's earlier inspection. The Landlord was of the view that he had complied with the RSEO and that he did not require to further replace the door.
  6. The Landlord confirmed that no specialist damp survey had been instructed. He advised that the contractors who had carried out the repair work, including the re-plastering and re-decoration work had not raised any concerns in relation to damp.

8. The committee concluded that the Landlord had failed to comply fully with item 2 of the RSEO. He had not instructed and completed the C2 recommended works within the EICR.

9. The committee was not satisfied that the Landlord had fully complied with item 5 of the RSEO. It is acknowledged that the Landlord had installed a new front door. However unfortunate the circumstances are that led to the front door being damaged and now not capable of being locked, the Landlord has a duty and responsibility to ensure that the Property is capable of being kept secure. If the Landlord believes that the Tenant is responsible for the circumstances, then he may have alternative remedies but his duties in terms of Section 14 of the Act mean that he must take steps to ensure repair and/or replacement of the front door of the Property.

10. The committee was otherwise satisfied that the RSEO had been complied with. There was no doubt about the fact that a Gas Safety Certificate had been produced. The condition of the roof was observed to be satisfactory and additionally the written Report supported this. The committee took the view, given all of the available evidence, that there was no longer any necessity for a specialist damp survey to be instructed.

11. The Landlord made further reference to difficulties in ensuring compliance on the part of the Tenant to gain access to the Property. The committee were not satisfied that this issue was a significant matter, nor one which justified the failure of the Landlord to have completed the works required in terms of the RSEO prior to the Inspection and Hearing on 30 June 2016.

12. The committee considered whether or not a variation/extension or revocation of the Repairing Standard Enforcement Order was appropriate but discounted these options. The Landlord has already had every opportunity to carry out the works required in terms of the Repairing Standard Enforcement Order. They have not taken appropriate steps to meet their obligations. The committee, in the circumstances, has no confidence that the Landlord is seeking to fully complete the works required in terms of the Repairing Standard Enforcement Order with any degree of urgency.

## **DETERMINATION AND REASONS**

The Committee considered the circumstances as earlier set out. The Committee unanimously decided in terms of Section 26(1) of the Act that the Landlord had failed to comply with the RSEO and directed that a notice of the failure be served on the Local Authority for which the property is situated.

## **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.**

**The appropriate respondent in such appeal proceedings is the other Party to the proceedings and not the Private Rented Housing Panel or the Committee which made the decision.**

**Effect of Section 63**

Whereas 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 28 days from the day on which the appeal is abandoned or so determined.

In witness whereof these presents typewritten on this and the preceding page(s) are executed by Richard Mill, Solicitor, chairperson of the Private Rented Housing Committee at Edinburgh on the Fourth day of July Two Thousand and Sixteen before this witness:-

**M Murray**

witness

**R Mill**

chairman

Margaret Johnstone Murray  
21 Stafford Street  
Edinburgh  
EH3 7BJ

Legal Secretary



15 Fir View, Calderbank, Airdrie ML6 9SW  
PRHP/RP/15/0261  
Schedule of Photographs - Inspection Date 30/06/2016  
Weather – Overcast, dry



1. The property



2. Roof and chimney - front



3. Chimney - front



4. Valley gutter



5. Repair to valley gutter



6. Roof gable



7. Roof and chimney - back



8. Damaged replacement front door



9. Damaged replacement front door



10. Previous front door



11. Plaster/decoration at water damaged bedroom



12. Plaster/decoration at water damaged bedroom



13. Plaster/decoration at water damaged bedroom





14. Hall window to be replaced



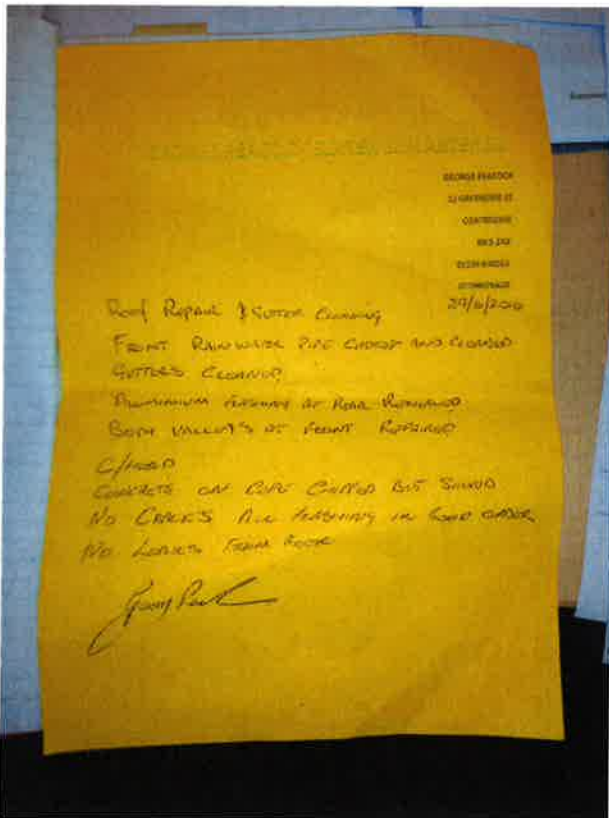
15. Instantaneous shower



16. Replacement electric hob



17. Gas boiler



18. Roof Report