



**REPAIRING STANDARD ENFORCEMENT ORDER**  
Ordered by the Private Rented Housing Committee

**Re: Property at 2 Balgreggie Road, Cardenden, Fife, KY5 0NF as more particularly described in Land Certificate Title Number FFE72176 (hereinafter referred to as "the House")**

**Miss Gillian Clements (hereinafter referred to as "the Tenant")**

**and**

**Mr Craig Williamson, The Red House, Lochfoot, Dumfries, DG2 8NR (hereinafter referred to as "the Landlord")**

**PRHP REFERENCE PRHP/RP/13/0117**

**NOTICE TO**

**Mr Craig Williamson, the Landlord**

**WHEREAS** in terms of their decision dated 16 May 2014 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 and in particular that the Landlord has failed to ensure that the House meets the repairing standard in respect of:

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

The Committee now requires the landlord to carry out such work as is necessary for the purposes of ensuring that the House 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 Committee requires the Landlord:

1. To effect a complete renovation and overhaul of the roof in order to eradicate water ingress. Further to that, the Landlord is required to commission a report from a reputable roofing contractor who is a member of the Federation of Master Builders detailing the works to be carried out in order to make the House water tight. The report requires to be obtained with 30 days of service of this Repairing Standard Enforcement Notice ("RSEO") and a copy provided on receipt for approval by the Committee. Thereafter, to follow and execute the recommendations in the said report in full **within 60 days** of receiving it and provide proof to the Committee of having done so.
2. To clear, clean and repair the guttering of the House in order for it to be made in full working order at the same time as the roof renovation and overhaul works referred to above are carried out (i.e. **within 60 days** of the report referred to above being received).
3. To repair the leak to the toilet and to repair the drainage system serving the bath so that it drains fully and properly and does not back up or result in any residue in the bath occurring. Further, to instruct an electrical safety check to be carried out by a qualified electrical who is a member of the National Inspection Council of Electrical Installation Contractors (NICEIC) or SELECT Scotland in relation to all electrical fittings within the House to ensure and certify that they are safe and fit for use.
4. To repair the gas fire in the lounge and replace the fire within the front room and ensure that they are safe and fit for use by means of certification from a Gas Safe engineer.
5. To replace the carpet in the front room with a carpet which is equivalent to that which was present at the commencement of the tenancy. Also to decorate the front room to a standard equivalent to that which existed prior to the roof collapse in September 2013 and in any event to a standard which is reasonably fit for human habitation.
6. To instruct and obtain a Gas Safety Certificate forthwith and in any event no later than **within 7 working days** from the service of this RSEO.

The Committee order that the works specified in this Order must be carried out and completed within 30 days from the date of service of this Notice except where otherwise specified.

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 the decision.

Where such an appeal is made, the effect of the decision and 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 and the preceding page are signed by Maurice O'Carroll, Chairperson of the Private Rented Housing Committee at Glasgow on the 19<sup>th</sup> day of May, Two Thousand and Fourteen in the presence of the undernoted witness:

Chairperson

M O'Carroll

Witness

A Ross

ASHLEY ROSS

Witness Address:

EUROPA BUILDING  
450 ARKYLE ST  
GLASGOW G284H



**DETERMINATION BY PRIVATE RENTED HOUSING COMMITTEE**

**STATEMENT OF DECISION OF THE PRIVATE RENTED HOUSING COMMITTEE  
UNDER SECTION 24(1)  
OF THE HOUSING (SCOTLAND) ACT 2006**

**In connection with**

**Property at 2 Balgreggie Road, Cardenden, Fife, KY5 0NF (hereinafter referred to as “the House”)**

**Miss Gillian Clements (hereinafter referred to as “the Tenant”)**

**Mr Craig Williamson, The Red House, Lochfoot, Dumfries, DG2 8NR (hereinafter referred to as “the Landlord”)**

**PRHP REFERENCE PRHP/RP/13/0117**

**DECISION**

The Committee having made such enquiries as are fit for the purposes of determining whether the Landlord has complied with the duty imposed by section 14(1)(b) of the Housing Scotland Act 2006 (hereinafter “the Act”) in relation to the House, and taking account of the evidence led at the hearing and of the written documentation attached to the application and submitted by the parties, determined that the Landlord had failed to comply with the duty imposed by section 14(1)(b) of the Act.

**Background**

By application dated 6 October 2013 (hereinafter referred to as the “Application”) the Tenant applied to the Private Rented Housing Panel (hereinafter “the PRHP”) for a determination of whether the Landlord had failed to comply with the duties imposed by section 14(1)(b) of the Act.

The Application stated that the Tenant considered that the Landlord had failed to comply with the duty to ensure that the House meets the repairing standard and in particular that the Landlord had failed to ensure compliance with the following paragraphs of section 13(1) of the Act:

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

The Tenant complained of a number of defects in the House.

By letter of 12 February 2014, the President of the PRHP intimated a decision to refer the application under section 23(1) of the Act to a Private Rented Housing Committee (hereinafter referred to as “the Committee”).

The Committee comprised the following members:

Maurice O'Carroll, Chairperson  
David Hughes Hallett, Housing Member  
Susan Napier, Surveyor Member

The Committee served Notice of Referral in terms of Paragraph 1 of Schedule 2 to the Act upon the Landlord and the Tenant.

The Committee inspected the House on 9 May 2014. Only the Tenant was present.

Following the inspection, the Committee held a hearing at the Bowhill Community Centre, Station Road, Cardenden. Again, only the Tenant appeared at the hearing in person and she did so without representation. The Committee noted that the date of inspection and hearing had been intimated to the Landlord at the address noted above and also at another address at the Royal Hotel, Dysart, being the address stated in the title deeds. The Notice of Referral had also been sent to both of those addresses but no response had been received from the Landlord. The Committee considered the written evidence submitted by the parties and heard representations from the Tenant at the hearing.

The Committee had sight of two letters of complaint sent by Fife Council Environmental Services to the Landlord in respect of the condition of the property and the absence of a gas safety certificate dated 27 June and 6 August 2013, following its own inspection on 24 June 2013. Further letters were sent by the Council on 22 October 2013 (by recorded delivery post) and 4 November 2013, without response by the Landlord having been made or any action being taken. The Committee had regard to that correspondence and the statements within it. However it carried out its own inspection for the purposes of determining the Application.

## Evidence at the Hearing

The Committee asked questions of the Tenant in relation to the relevant issues. During the course of the inspection the Tenant had made it clear that, contrary to what was stated in the Application, the dishwasher had now been replaced and the toilet flush had been fixed. She also confirmed that the light in the bathroom which had blown due to water ingress had been replaced. This was confirmed at the hearing.

The relevant sections of the Act remained as s 13(1)(a)-(e). These were in relation to the following:

- (1) Dampness and mould caused by water ingress;
- (2) Broken and choked guttering;
- (3) Faulty bath drainage, leaking toilet bowl;
- (4) A non-functioning (condemned) fireplace in the living room;
- (5) Absence of carpeting in front room; and
- (6) Absence of a gas safety certificate;

The Tenant advised that she had experienced dampness issues since moving into the House in 2011. The entire ceiling in the front room of the House (which had previously been used as a bedroom) had collapsed approximately eight months prior to the inspection. The debris from the ceiling had been removed by the Landlord and dumped in the front garden where it was still visible at the time of inspection. The carpet and gas fireplace within that room had also been removed and never replaced. The walls had since been replastered but remained undecorated.

She also referred to chronic dampness in the upstairs landing above the storage cupboard there which had resulted in hole in the interior wall which had been pointed out during the inspection. In addition, there was rotting caused by dampness on the velux window in the main bedroom upstairs.

In total, three roofing contractors had been called out to look at the roof to her knowledge: One, a year prior to inspection after which the contractor refused to carry out the piecemeal works as instructed by the Landlord; a second one some six months prior whereby some slates were moved around to stop a leak occurring within the main bedroom; and a third in January or February of 2014 for quotation purposes but which had not resulted in any works being carried out.

In April 2013, new gas central heating had been installed in the House by the local authority. Around that time, the gas fires in both the front room and the main living room had been inspected and safety warning notices issued in respect of each. The tenant provided copies of those notices dated 18 May 2013. The fire in the front room had been described as "at risk" due to faulty installation, whereas the fire in the living room had been condemned as unsafe and usable and had been shut off for reasons of safety by Scottish Gas. The fire in the front room had been completely removed two months prior to the inspection and the fire in the living room had remained unusable since it had been shut off for the whole year prior to inspection by the Committee.

The Tenant also advised that the light in the bathroom had blown due to water ingress but it had now been replaced. The water ingress, however, appeared to have moved to the door frame to the bathroom. The flush mechanism in the toilet now worked but there was still a leak beneath the bowl which persisted and had not been fixed. The bath was slow to drain and sometimes dirty water backed up leaving brown residue.

The last Gas Safety Certificate she was aware of expired in July 2012. The absence of a current Gas Safety Certificate was confirmed by the letters from Fife Council referred to above.

### **Summary of the Issues**

The issue to be determined is whether the House meets the repairing standard as laid down in section 13 of the Act and whether the Landlord has complied with the duty imposed by section 14 (1)(b).

### **Findings in Fact**

The Committee confined their inspection to the items of complaint detailed within the Tenant's Application.

The Committee made the following findings in fact:

The Tenant was found to be a completely credible witness who had conscientiously cared for the property as best she could and had attempted to have the defects in the House rectified over a considerable period of time.

The Landlord and the Tenant entered into a Tenancy agreement in respect of the House in May 2011. The Tenant took possession of the House from that date and has remained in occupation since. They entered into a formal lease on 1 April 2012 for six months which had continued six-monthly ever since by tacit relocation.

The Landlord was recorded on the Lease as Craig Williamson under the address given above.

The registered owner of the House is recorded as the Landlord jointly with Jennifer Williamson at the address in Dysart referred to above. They became registered owners on 12 January 2005 under title number FFE72176.

The provisions of Chapter 4 of Part I of the Act apply to the tenancy.

The Tenant notified the Landlord of the defects in the house which are now the subject of the Application via the offices of Fife Council who issued the letters referred to above at her instigation.

The inspection on 9 May 2014 revealed:

The property is a traditional 1½ storey detached villa which has been converted to incorporate three bedrooms on the upper floor and extended to produce a kitchen area to the rear of the property. It was built circa 1930s and has a slated roof.

The items referred to above in the course of the Tenant's evidence were confirmed on inspection by the Committee and are adopted within its findings in fact.

The Committee found evidence of significant water ingress into the House. Damp meter readings taken in the kitchen, the hall outside the bathroom door, the front room on both sides near the window and above the storage cupboard in the upstairs hallway showed very high levels of dampness in those areas. There was yellow staining on the ceilings in the main bedroom and the lounge area, also indicative of water ingress and there was evidence of prior dampness in the corner of the second bedroom to the rear of the House. There was also evidence of dampness at the velux in the main bedroom.

The Committee was satisfied that the dampness in the House was a result of water ingress caused by defects in the roof, rather than rising damp or penetrating dampness from another source.

At the rear of the property, the guttering was choked with vegetation. Sections of the guttering were missing and it was in a very poor state of repair. The guttering downpipe from the rear dormer window fed directly onto the choked guttering on the main roof. The general state of the roofing was poor showing neglect over a lengthy period of time, with missing and mis-aligned slates.

There was no ventilation in the bathroom and hinges in the cupboard directly above the toilet were rusty showing excessive condensation as a result. The leak in the toilet which resulted in pooling beneath it appeared to be due to a faulty joint in its connection with the main wall and waste pipe.

## **Reasons for the Decision**

### **The Repairing Standard**

The provisions of section 14(1)(a) and (b) of the Act apply to the Landlord. This section requires the Landlord to ensure that the House meets the repairing standard at the start of the tenancy and at all times during the tenancy. In terms of s14(2), the duty includes a duty to make good any damage caused by carrying out any work for the purposes of complying with that section.

The Committee finds that the water ingress evident within the property to constitute a breach of the repairing standard in terms of s 13(1)(a) of the Act. The Committee therefore requires the Landlord to effect a complete renovation and overhaul of the roof in order to eradicate water ingress. Further to that, it requires the Landlord to commission a report from a reputable roofing contractor who is a member of the Federation of Master Builders detailing the works to be carried out in order to make the House water tight. The report requires to be obtained with 30 days of service of the Repairing Standard Enforcement Notice

("RSEO") to follow hereon and a copy provided on receipt for approval by the Committee. Thereafter, the Landlord requires to follow and execute the recommendations in the said report in full within 60 days of receiving it and provide proof to the Committee of having done so.

The Committee considered that the defective guttering and downpipes to be a breach of the repairing standard terms of s 13(1)(b) of the Act. The Committee therefore requires the Landlord to clear, clean and repair the guttering of the House in order for it to be made in full working order at the same time as the roof renovation and overhaul works referred to above are carried out.

The Committee considered that the toilet leak and bath drainage defect constitute a breach of the repairing standard (s 13(1)(c)). The Landlord is therefore required to repair the leak to the toilet and to repair the drainage system serving the bath so that it drains fully and properly and does not back up or result in any residue in the bath occurring. Further, due to the past history of water ingress affecting the lighting within the bathroom, the Landlord is required to instruct an electrical safety check to be carried out by a qualified electrical who is a member of the National Inspection Council of Electrical Installation Contractors (NICEIC) or SELECT Scotland in relation to all electrical fittings within the House to ensure and certify that they are safe and fit for use.

The Committee considered that the defects with the gas fires which resulted in safety warning notices being issued by Scottish Gas constitute a breach of the repairing standard (s 13(1)(d)). The Committee notes that the House now benefits from full central heating. The Committee therefore requires the Landlord to repair or replace the gas fire in the lounge only and to ensure that it is safe and fit for use by means of certification from a Gas Safe engineer.

The Committee considered that the removal of the carpet within the front room to constitute a breach of the repairing standard (s 13(1)(e)). The Landlord is required to replace the carpet in the front room with a carpet which is equivalent to that which was present at the commencement of the tenancy. He is further required to decorate the front room to a standard equivalent to that which existed prior to the roof collapse in September 2013 and in any event to a standard which is reasonably fit for human habitation.

Although it does not form part of the Repairing Standard Enforcement Order to follow hereon, the Committee recommends that an extractor fan is fitted within the bathroom of the House in order to combat condensation.

The Committee also notes that the smoke alarms in the House are battery operated. In the event that they are replaced or upgraded, smoke alarms must be hard wired, that is to say, connected to a mains electricity supply.

#### Gas Safety

The Committee was satisfied that the Landlord did not have in place a current Landlord's Gas Safety Certificate contrary to the Gas Safety (Installation and Use) Regulations 1998 and the repairing standard in terms of s 13(1)(c) of the Act.

He is therefore required to instruct and obtain a Gas Safety Certificate forthwith and in any event no later than 7 working days from the service of the RSEO.

### Repairing Standard Enforcement Order

Having decided to make a Repairing Standard Enforcement Order, the Committee considered the length of time which should be provided for compliance. The Committee elected to impose a period of 30 days having regard to the extent of works that required to be carried out, with the exception of the roofing and gutter repairs and the Gas Safety Certificate, in respect of which other periods for compliance apply.

### **Decision**

The Committee, considering the terms of section 13(3) of the Act, determined that the Landlord had failed to comply with the duty imposed by section 14(1)(b) of the Act.

The Committee proceeded to make a Repairing Standard Enforcement Order as required by section 24(2) of the Act.

The decision of the Committee was unanimous.

### **Right of Appeal**

Section 64 of the Act provides a right of appeal to a landlord or tenant aggrieved by a decision of a private rented housing committee. An appeal may be made to the Sheriff within 21 days of the Landlord or Tenant being informed of the decision.

Where such an appeal is made, the effect of the decision and 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.

# M O'Carroll

Maurice O'Carroll  
Chairperson

Date: 16 May 2014