



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

Re 92 Dundonald Avenue, Johnstone, PA5 0LT being the subjects registered in the Land Register of Scotland under title number REN107838 ('the Property')

The Parties:-

Mrs Frances Greig residing at 92 Dundonald Avenue, Johnstone ('The Tenant')

James Doherty per Excel Property (EP) 37 Bairds, Crescent, Allanshaw Industrial Estate, Hamilton, ML3 9BG and Concept Property Letting, 1 Montgomery Place, The Village, East Kilbride, G74 4BF ('The Landlord')

NOTICE TO

James Doherty

per Excel Property (EP) 37 Bairds, Crescent, Allanshaw Industrial Estate, Hamilton, ML3 9BG and Concept Property Letting, 1 Montgomery Place, The Village, East Kilbride, G74 4BF

Whereas in terms of their decision dated 7 April 2014, 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 the Landlord has failed to ensure that the structure and exterior of the Property are in a reasonable state of repair and proper working order and that the installations in the Property for the supply of water, gas and electricity and for sanitation, space heating and heating water are in a reasonable state of repair and 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 Property 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 to:

1. Carry out any necessary repairs to render the boiler, gas fire in the lounge and central heating system in proper working order.
2. On completion of the works specified in paragraph (1) hereof to exhibit a valid Gas Safety Certificate confirming that the installation is safe and free from defects.
3. Carry out any works necessary to render the electrical sockets in the property in proper working order.
4. On completion of the works specified in paragraph (3) hereof to exhibit a valid Periodic Inspection Report confirming that the installation is safe and free from defects.
5. Repair or replace the defective window catches to render them in proper working order.

The Private Rented Housing Committee order that these works must be carried out and completed By 31st May 2014.

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.

Signed..... **J Tayler** Date 7 April 2014

Chairperson **L McGuire** witness: Luke McGuire, 450 Argyle Street, Glasgow, G2 8LG



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

Re 92 Dundonald Avenue, Johnstone, PA5 0LT being the subjects registered in the Land Register of Scotland under title number REN107838 ('the Property')

The Parties:-

Mrs Frances Greig residing at 92 Dundonald Avenue, Johnstone ('The Tenant')

James Doherty per Excel Property (EP) 37 Bairds, Crescent, Allanshaw Industrial Estate, Hamilton, ML3 9BG and Concept Property Letting, 1 Montgomery Place, The Village, East Kilbride, G74 4BF ('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 Property, determined that the Landlord has failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

Background

1. By application dated 10th October 2013 the Tenant applied to the Private Rented Housing Panel for a determination of whether the Landlord has 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 she considered that the Landlord has failed to comply with his duty to ensure that the Property meets the repairing standard. She advised that structure and exterior of the Property was not in a reasonable state of repair and proper working order and that the installations in the Property for the supply of water, gas and electricity and for sanitation, space heating and heating water are not in a reasonable state of repair and proper working order.

In particular the application stated that:-

- 2.1 The heating does not work as the back boiler is old and needs to be replaced.
 - 2.2 The guttering needs to be cleaned.
 - 2.3 The windows are not working properly as catches are missing.
 - 2.4 Electrical sockets over heat.
3. The President of the Private Rented Housing Panel, having considered the application, referred the application under Section 22 (1) of the Act to a Private Rented Housing Committee. The Committee members were Jacqui Taylor (Chairperson), Alex Carmichael (Surveyor Member) and Jim Riach (Housing Member).
 4. The Private Rented Housing Committee served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon the Landlord, the Landlord's agents Concept Property Letting, the Landlord's agents Excel Property and the Tenant, dated 28th January 2014.

5. The Committee attended at the Property on 3rd April 2014. The Tenant and James Doherty were present. The Property comprises a four apartment upper cottage flat situated on the first floor east most of a two storey four house flatted estimated to be in the region of around 50/60 years old. The Property appeared to be of traditional construction with brick solid and brick cavity outer walling with outer roughcast finish. The floors throughout appeared to be timber boarded on suspended joists. The timber pitched roof was finished with tiles. The accommodation comprised entrance hallway, lounge, three bedrooms, kitchen and bathroom. The Property had a gas fired central heating system and PVC double glazed windows throughout.

The Committee inspected the alleged defects and found as follows:-

- 5.1 The heating does not work as the back boiler is old and needs to be replaced.
Central heating was provided by means of a Baxi Bermuda gas fire with back boiler. The gas fire in the lounge was condemned as unsafe and had been switched off. The central heating was therefore provided by means of the back boiler only. The central heating was operating at the time of the inspection. All the radiators in the Property were warm however the radiator in the lounge was not uniformly warm and was cooler to the top of the radiator.
- 5.2 The guttering needs to be cleaned.
The Tenant advised that the gutters had recently been cleaned and repaired by Renfrewshire District Council. The Committee confirmed that the gutters appeared to be in a good working condition.
- 5.3 The windows are not working properly as catches are missing.
Defective 'child safe' latches were noted to the windows in the lounge and the middle front bedroom.
- 5.4 Electrical sockets over heat.
The electrical installation was inspected and old socket outlets were noted. The Committee also noticed that there was defective plasterwork surrounding the sockets.

Separately the Committee noted that the fire alarm installation did not appear to comply with the current regulations as there was no fire detector within the main apartment. They also noted that all fire and smoke detectors were battery operated and were not inter connected.

6. The Hearing

Following the inspection of the Property the Private Rented Housing Committee held a hearing at the PRHP offices at Europa Building, 450 Argyle Street, Glasgow G2 8LH.

The Tenant, her daughter and grandson and also the Landlord attended the hearing. The parties advised the Committee as follows:

- 6.1 The heating does not work as the back boiler is old and needs to be replaced.
The Tenant provided the Committee with a copy of the gas safety certificate dated 8th April 2013 and three job cards for repairs carried out to the central heating system since the commencement of her tenancy in August 2013. Two of the job cards confirmed that the appliances were safe to use. The third most recent job card stated that the appliance was unsafe to use.
The Tenant advised that the engineer who had called at the Property to inspect the central heating system had told her to bang the pipes near the central heating pump with a hammer.
- The Landlord reminded the Committee that the gas safety certificate is valid and in date.
- 6.2 The guttering needs to be cleaned.
The parties confirmed that this matter had been attended to.

6.3 The windows are not working properly as catches are missing.

The Landlord advised the Committee that he would have the defective catches repaired.

6.4 Electrical sockets over heat.

The Tenant advised the Committee that the electrical socket in the middle front bedroom had heated up when her grandson had plugged in an extension cable with a TV attached. The Landlord advised the Committee that the sockets in the lounge had been repaired but the Tenant had not advised him that she was having a problem with the socket in the middle front bedroom.

7 Summary of the issues

The issues to be determined are:

7.1 Section 13 (1)(b) of the Act: The structure and exterior of the Property are in a reasonable state of repair and proper working order.

Whether the condition of the defective window catches results in them not in a reasonable state of repair and proper working order.

7.2 Section 13 (1)(c) of the Act: The installations in the Property for the supply of water, gas and electricity and for sanitation, space heating and heating water are in a reasonable state of repair and proper working order.

Whether the condition of the central heating system, the gas fire in the lounge and the electrical sockets results in them not being in a reasonable state of repair and proper working order.

8 Findings of fact

8.1 Section 13 (1)(b) of the Act: The structure and exterior of the Property are in a reasonable state of repair and proper working order.

The defective window catches were not in proper working order.

8.2 Section 13 (1)(c) of the Act: The installations in the Property for the supply of water, gas and electricity and for sanitation, space heating and heating water are in a reasonable state of repair and proper working order.

The gas fire had been condemned and the radiator in the lounge was not heating up properly. Whilst the gas safety certificate was current at the date of the inspection a subsequent job card had stated that the appliances were not safe to use. The Committee found that the central heating system and the gas fire in the lounge were not in proper working order.

The electrical sockets did not appear to comply with current IEE regulations as they were old sockets and there was defective plaster work surrounding them. Therefore the Committee found that the electrical sockets were not in proper working order.

9 Decision

The Committee accordingly determined that the Landlord had failed to comply with the duties imposed by Sections 14 (1)(b) of the Act, as stated.

10 The Committee proceeded to make a Repairing Standard Enforcement Order as required by section 24(1).

11 The decision of the Committee was unanimous.

12 Separately the Committee recommends that a smoke alarm is fitted in the lounge of the Property and the smoke alarms are interlinked to comply with the current Building Standards guidance. This matter is not included in the Repairing Standard Enforcement Order as the condition of the smoke alarms was not included in the Tenant's application.

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.

Signed **J Tayler** Date 7 April 2014
Chairperson