



## Repairing Standard Enforcement Order

### Ordered by the Private Rented Housing Committee

Re Flat 6/63 Larkfield Road, Gourrock, PA19 1YB being the subjects registered in the Land Register of Scotland under title number REN130857 ('the Property')

The Parties:-

Miss Fiona Cameron (The Tenant'), residing at the Property

Mr Colin Todd, care of White Letting, Clarence House, 1 Haig Street, Greenock, PA15 1JG ('The Landlord')

#### NOTICE TO

Colin Todd

Whereas in terms of their decision dated 21<sup>st</sup> May 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, that the Landlord has failed to ensure that the property is wind and watertight and in all respects reasonably fit for human habitation and that 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 in proper working order.

The Private Rented Housing Committee now requires the Landlords 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 following:

1. The landlord has to ensure that a suitably qualified heating engineer inspect the heating system with regard to providing a report on whether or not it has sufficient and proper thermostatic control and thereafter to comply with any recommendations of the engineer.
2. The landlord is to ensure that the bath panel and its trim are properly fitted.
3. The landlord is to carry out work to ensure that the front door is wind and water tight.

The Private Rented Housing Committee order that these works must be carried out and completed within twenty eight days of the date of service.

**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  M McAllister  
Chairperson

..... Date 21<sup>st</sup> May 2014

S Harvey ..... witness: Sharon Harvey, 51 Hamilton Street, Saltcoats



## **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 Flat 6/63 Larkfield Road, Gourock, PA19 1YB being the subjects registered in the Land Register of Scotland under title number REN130857 ('the Property')

**The Parties:-**

**Miss Fiona Cameron (The Tenant'), residing at the Property**

**Mr Colin Todd, care of White Letting, Clarence House, 1 Haig Street, Greenock, PA15 1JG ('The Landlord')**

#### **Decision**

The Committee, having made such enquiries as it saw fit for the purposes of determining whether the Landlords have complied with the duty imposed by Section 14 (1) (b) of The Housing (Scotland) Act 2006 in relation to the Property, determined that the Landlord has failed to comply with the said duty and made a repairing standard enforcement order.

#### **Background**

1. By application dated 2<sup>ND</sup> January 2014 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 form stated that the tenant's representative is Alastair Houston of LSA's Inverclyde Housing Rights Project.
3. The application by the Tenant stated that the landlord had failed to comply with the duty to ensure that the Property meets the repairing standard. The application contended that the Property is not wind and watertight and in all respects reasonably fit for human habitation; 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 and fixtures, fittings and appliances provided by the landlord under the tenancy are not in a reasonable state of repair and in proper working order. In particular the application stated that:-
  - 3.1 The gas boiler is not working.
  - 3.2 The cooker requires to be repaired because there are safety issues.
  - 3.3 The provision of hot water is not effective.
  - 3.4 Radiator thermostats require to be properly installed.
  - 3.4 Kitchen units require to be fixed.
  - 3.5 Linoleum requires to be repaired.
  - 3.6 The front door requires to be made draught proof.

- 3.7 There are unresolved plumbing issues under the bath and behind the toilet  
3.8 There is a wet wall in the bathroom.

4. 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 are **Martin McAllister (Chairperson), Andrew Taylor (Surveyor Member) and Christopher Harvey (Housing Member)**.
5. The Private Rented Housing Panel served a Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon both the Landlord and the Tenant, dated 10<sup>th</sup> February 2014.
6. The members of the Private Rented Housing Panel inspected the property on 16<sup>th</sup> May 2014 and found:

6.1 The Property is not wind and watertight and in all respects reasonably fit for human habitation.

The front door does not have sufficient draught proofing causing there to be draughts. No wet wall was found in the bathroom. It was noted that a metal fence outside the front door is broken and has a jagged edge.

6.2 The installations in the house 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 in proper working order.

The gas boiler is working and providing heat to the radiators and heating water. There is no central thermostat. Radiators were fitted to most radiators but it could not be determined whether or not they had been properly installed and were effective. A time clock was fitted to the boiler but it could not be determined whether or not it was capable of being operated effectively. No issues could be found with regard to the plumbing under the bath and behind the toilet but it was noted that the bath panel and trim had not been replaced properly after repairs.

6.3 The fixtures, fittings and appliances provided by the landlord under the tenancy are not in a reasonable state of repair and in proper working order.

The cooker is working. There is a gap beside the cooker caused by the replacement of a range cooker with a cooker of normal size. As a consequence of the gap being present, access can be obtained to the rear of the cooker where there is a gas hose which is securely fitted. Linoleum at the side of the kitchen units was found to be slightly torn. The mains connected smoke detector was tested and found to be working.

7. Following the inspection of the Property the Private Rented Housing Committee held a hearing at Gamble Halls Gourrock.  
The Tenant attended the hearing and was accompanied by her mother Josie Cameron and Ashley Martin of Legal Services Agency. The landlord was neither present nor represented.

## **8. Summary of the issues**

Sections 13(1)(a),(c) and (d) of The Housing (Scotland) Act 2006 provide that the Property must be wind and watertight and in all respects reasonably fit for human habitation, 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 and

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

The specific issues to be addressed are:

The efficiency or otherwise of the heating system, plumbing issues including the supply of hot water, whether or not the condition of the front door is satisfactory and is likely to cause draughts, whether or not there is a wet wall in the bathroom, whether or not the bath panel and trim are satisfactorily fitted, whether or not easy access to the rear of the cooker constitutes a risk, whether or not linoleum requires to be mended and whether or not kitchen units require to be fixed

## **9. Evidence**

The tenant said that the thermostatic valves, where fitted, do not work. She said that she has no way of controlling the heating system with regard to timing or temperature and that it is either on or off. The tenant said that there had been frequent call outs to heating engineers because the heating system was not working and she said that not all engineers attending were gas safe registered engineers. The tenant said that lack of control of the heating system meant that she was paying £80 per week for gas and on occasions she could not afford to do this which meant that she could not use the gas cooker because she could not afford to pay for gas. A gas safety certificate dated 30<sup>th</sup> October 2013 stated "thermostat in hall faulty needs to be replaced for boiler control to work properly." The tenant said that the faulty thermostat had been removed but no replacement had been installed.

The tenant said that the cooker works well but, because it is a replacement for a wider cooker, there is a gap between the cooker and the kitchen units. She said that the landlord had promised to install a kitchen unit to fill the gap but that this had not happened which meant that her young son could get access to the rear of the cooker where there was a gas pipe. As a consequence of this she has to keep the kitchen door locked to prevent her young son interfering with the pipe at the rear of the cooker.

The tenant said that the front door had been replaced but had not been fitted effectively to prevent draughts and gaps around the door frame meant that wind blew into the house.

The tenant said that the linoleum at the edge of the kitchen units had been torn and that, despite promises, the landlord had not repaired it.

The tenant said that the wet wall in the bathroom had been as a result of the plumbing issues and that this was no longer a problem because the plumbing issues had been resolved.

The tenant said that there was a fault in the metal fence outside her front door which meant that there was a jagged edge. She said that she had reported this to the landlord's agents but nothing had been done. The tenant did not know if the property was factored.

The tenant said that she felt intimidated by the landlord's agents who had told her that if she left the property she would not get her deposit back.

## **10. Findings in fact**

The Committee found

10.1 The central heating system appears to be working in as much as it is heating radiators and providing hot water.

10.2 The cooker is working efficiently although access can be obtained to the rear of the cooker where there is a gas hose.

10.3 There is hot water.

10.4 There is a gap between the cooker and the kitchen units.

10.5 There are no unresolved plumbing issues in the bathroom although the bath panel and trim has not been properly replaced after repairs had been effected.

10.6 There are gaps around the front door where light can be seen and, as a consequence the door is not windproof.

10.7 There is a small section of damaged linoleum at the side of the kitchen units.

10.8 There is a damaged section of metal fence at outside the front door.

## 11 Reasons

11.1 The committee accepted the evidence of the tenant with regard to issues raised by her in connection with the heating system. On inspection the thermostatic valves could be turned but it could not be determined whether or not they were effective and it was noted that there had been no replacement thermostat fitted despite the recommendation contained in the gas safety certificate dated 30<sup>th</sup> October 2013.

11.2 It was obvious upon inspection that there is a gap between the cooker and the kitchen units and that the rear of the cooker was therefore accessible. The tenant said that the cooker worked well.

11.3 The hot water tap was operated at the inspection and it was evident that there is hot water.

11.4 The tenant said that the plumbing issues in the bathroom had been attended to but that the bath panel had not been replaced properly. The members of the committee noted upon inspection that this was correct.

11.5 The tenant's evidence with regard to the front door was accepted and the committee noted, upon inspection, that there were gaps around the door.

11.6 The linoleum at the side of the kitchen units was torn and this was evident upon inspection.

11.7 The tenant's evidence with regard to the fence was accepted and the committee noted at the inspection that there was a section of it that was jagged.

## Decision

The committee had to determine whether or not there are any of its findings in fact that constituted a failure by the landlord to ensure that the property meets the repairing standard in terms of the duty imposed by Section 14 of the Act.

In respect of the central heating system the committee considered that the landlord had failed to ensure that it worked effectively and in coming to its view the committee had regard to the tenant's evidence, what it found on inspection and the terms of the gas safety certificate dated 30<sup>th</sup> October 2013.

The committee noted that the bath panel had not been replaced properly and considered that, in respect of this, the landlord had not ensured that the property was maintained to the repairing standard.

The committee noted that there were gaps between the front door and the door frame and accepted the tenant's evidence that wind blew through the gap. In relation to the condition of the front door, the landlord had not maintained the house to the repairing standard.

The tenant accepted that the plumbing issues in the bathroom had been repaired and that there was now no issue with a wet bathroom wall.

The committee did not consider that the defect in the linoleum in the kitchen was material enough to bring the property below the repairing standard.

The tenant had not referred to the metal fence outside the front door in her application and the committee therefore could not come to a determination on the matter.

The committee considered carefully the issue of the cooker. The tenant accepted that the cooker is in working order. The committee had to determine whether the gap between the cooker and the kitchen unit and the access allowed to the gas hose at the rear of the cooker was sufficient to make a finding that, in this regard, the property fell below the repairing standard. The test that has to be applied is contained in Section 13 (1) (d) of the Act: that "any fixtures, fittings, and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order." The cooker works and the committee did not consider that access to the rear of the cooker meant that, in this regard, the property fell below the repairing standard. In coming to its view the committee noted that the gas hose was securely fixed to the cooker and it would be reasonable for the tenant to put measures in place to prevent access if she had concerns about the matter.

**The Committee accordingly determined that the Landlord has not complied with the duties imposed by Section 14(1)(b), of the Act and determined that a repairing standard enforcement order be made in the following terms:**

1. **The landlord has to ensure that a suitably qualified heating engineer inspect the heating system with regard to providing a report on whether or not it has sufficient and proper thermostatic control and thereafter to comply with any recommendations of the engineer.**
2. **The landlord is to ensure that the bath panel and its trim are properly fitted.**
3. **The landlord is to carry out work to ensure that the front door is wind and water tight.**

**The landlord is required to carry out the work within twenty eight days of intimation of the repairing standard enforcement order.**

The decision of the Committee was unanimous.

### **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.**

### **Effect of section 63**

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.

### **Note**

The committee noted that the fault to the fence outside the front door is not a matter that it could deal with because it is not a matter raised in the tenant's application. The committee considered it likely that the property forms part of a development that is

factored and it considers that the landlord should report the matter to any factor since the fence is potentially dangerous to children.  
The committee also considered that the landlord should take steps to resolve the issue of the gap between the cooker and the kitchen units even though it made no determination on the matter.

  
**M McAllister**

Signed ..... Date 21<sup>st</sup> May 2014  
Chairperson