



## **Repairing Standard Enforcement Order**

Ordered by the Private Rented Housing Committee

**Re: Subjects on the east side of CHARLOTTE STREET, HELENSBURGH and the north east side of EAST PRINCES STREET, HELENSBURGH edged red on the Title Plan. Together with the servitude rights specified in the Deed of Conditions in entry 4 of the Burdens Section and the subsisting rights to real burdens specified in the Schedule of Particulars relative to Subsisting Rights to Real Burdens below.**

**PRHP Reference: PRHP/RP/16/0116**

### **The Parties:**

Mr James and Mrs Helen Lee, 15 Charlotte Court, 37 East Princess Street, Helensburgh, G84 7DF ("the tenants")

Mr Robert Prow, c/o The Property Bureau, 47 Milngavie Road, Bearsden, G61 2DW ("the landlord")

### **Notice to Mr Robert Prow ("the landlord")**

Whereas in terms of its decision of 12<sup>th</sup> July 2016, 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 house meets the repairing standard in that:

*the house is wind and watertight and in all other respects reasonably fit for human habitation.*

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:

- (i) To carry out such works to the balcony window, double door unit of the living room, as are necessary to eradicate the water penetration at sill level.**
- (ii) This work should include, but is not limited to, cutting out and replacing water damaged sills, aprons, framing, skirting, chipboard flooring and carpets.**
- (iii) Thereafter to carry out all ancillary and redecoration works as are necessary to make good the area.**

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

**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.

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 determined.

IN WITNESS WHEREOF these presents typewritten on this are signed by Simone Sweeney, Chairperson of the Private Rented Housing Committee, at Glasgow, on 12th day of July, Two Thousand and Sixteen in the presence of the undernoted witness:

**Simone Sweeney**

.....

Barry Divers

(*Barry Divers*)

..... Chairperson

..... Witness

*ADVOCATE, ADVOCATES LIBRARY, PARLIAMENT HOUSE, EDINBURGH,  
EH1 1RF*



## **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 15 Charlotte Court, 37 East Princess Street, Helensburgh, G84 7DF ("the property")

Mr James and Mrs Helen Lee, 15 Charlotte Court, 37 East Princess Street, Helensburgh, G84 7DF ("the tenants")

Mr Robert Prow, c/o The Property Bureau, 47 Milngavie Road, Bearsden, G61 2DW ("the landlord")

Reference number: PRHP/RP/16/0116

#### **Decision**

Having made such enquiries as is 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 ("the Act") in relation to the property concerned and taking into account the evidence led from the tenant and the landlord at the hearing and the documentation submitted to the Private Rented Housing Panel ("PRHP") by the parties, the Private Rented Housing Committee ("the committee") determine that there has been a failure on the part of the landlord to comply with the duty imposed by Section 14 (1) (b) of the Act.

#### **Relevant Statutory Provisions**

Section 13: The repairing standard

(1) A house meets the repairing standard if—

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

(f) the house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.

Section 14: Landlord's duty to repair and maintain

(1) The landlord in a tenancy must ensure that the house meets the repairing standard—

(a) at the start of the tenancy, and

(b) at all times during the tenancy.

### **Background**

1. By application dated 31<sup>st</sup> March 2016 ("the application") the tenants applied to PRHP seeking a determination of whether or not the landlord had failed to comply with the duties imposed by Section 14 (1) (b) of the Act. The application had been completed by the tenants' daughter, Hazel Crawford.
2. In the application it was stated that the landlord had failed to comply with section 13 (1) (a) of the Act ("the repairing standard").
3. In the application, at section 8, the tenants' representative specified how she considered the landlord to have failed to meet the repairing standard:

*"Over the past 2 years my parents have contacted Property Bureau regarding the water coming into the property at the large double glazing Patio doors in the livingroom. Mr Prow has said several times over the past few years that this would get fixed and still hasn't completed the job."*

4. At section 9 of the application, the tenants' representative specified the areas of the property where she considered work to be done:

*"To fix the large window/door unit in livingroom that is letting in water.*

*To fix external window sill that is running inwardly causing to water ingress."*

5. In support of the application, the tenant submitted copy tenancy agreement together with copy letter dated, 15<sup>th</sup> January 2016 from Community Support, Argyll and Bute Council and copy letter, dated 31<sup>st</sup> March 2016, from the tenants' representative to the PRHP. The title deeds of the property were made available to the committee. The title identified the owner of the property as R M Prow (Motors) Limited.
6. By minute, dated 25<sup>th</sup> April 2016, the President of the PRHP referred the application to a Private Rented Housing Committee, in terms of Section 23 (1) of the Act.

7. An inspection of the property and a hearing before the committee were assigned for 28<sup>th</sup> June 2016. The committee comprised the following members:
  - (i) Miss Simone Sweeney, Legal member and;
  - (ii) Mr Andrew Taylor, Surveyor member.
  
8. An inspection of the property took place at 10am on 28<sup>th</sup> June 2016. The landlord was absent. There was no representative from the letting agents. In attendance were the tenants only.
  
9. In the course of the inspection, the tenants advised the committee that the landlord had inspected the double glazed door unit at the property on at least two occasions, most recently in June 2016. The tenants advised the committee that the carpet becomes very wet when the weather is bad and rain water enters through the door unit. The water had saturated the floor beneath the carpet and seeped through to the property below. Insects, in particular, slugs and beetles, were found to be gathering in the area. This caused the tenants grave concerns about risks to their health and safety and that of their young grandson who spends time at the property. So great was their concern, that the tenants had taken a slug to the letting agents' office to provide evidence of the problem. The tenants submitted that, some months earlier, the landlord had assured the tenants that he would address matters once the weather improved. A temporary mastic seal was applied to the exterior of the door unit but the tenants submitted that no permanent repairs had been effected since.
  
10. Following the inspection, a hearing of evidence was arranged to take place at Victoria Halls, Sinclair Street, Helensburgh, G84 8TU. Neither party nor any representative on their behalf appeared at the hearing. The committee considered all the evidence before them and made its determination.

### **Summary of the issues**

11. The issues to be determined are: whether the property meets the repairing standard set out at section 13 (1) (a) of the Act in terms of
  - (i) 13 (1) (a): whether the double glazed door unit at the living room is wind and water tight and;
  - (ii) whether the landlord has complied with the duty imposed by Section 14 (1) (b).

### **Findings in fact**

12. The committee make the following findings in fact:
13. That the tenancy agreement between the parties for the property is dated 19<sup>th</sup> June 2013. The lease is a short assured tenancy in terms of section 32 of the Housing (Scotland) Act 1988. The provisions of Chapter 4 of the Act apply.
14. That the landlord is Robert Prow.
15. That Property Bureau is the letting agent for the property and acts on behalf of the landlord.
16. That the tenants' representative sent a letter to the PRHP, dated 31<sup>st</sup> March 2016.
17. That this letter stated that that tenants had contacted the landlord regarding repairs at the property.
18. That the letter stated:

*"I have contacted the housing improvement officer at Argyll and Bute Council Diane Richardson And building Standards Mr A. Linden. A Joint inspection has been made by them and they have been in contact with Mr Prow regarding all repairs. All my parents correspondence was done by phone or in person which means I do not have any letters to enclose with the application. "*
19. That the letter of 31<sup>st</sup> March 2016 inferred that the tenants had communicated orally to the landlord their concerns of water ingress at the double glazed door unit.
20. That the landlord had inspected the double glazed door unit on at least two occasions, most recently in June 2016.
21. That the landlord had been given notice of the repair issue of water ingress at the double glazed door unit.
22. That the tenant submitted an application to the PRHP on 31<sup>st</sup> March 2016.
23. That an inspection and hearing were arranged to take place on Tuesday 28<sup>th</sup> June 2016 and this was intimated to each party by the PRHP by letter of 17<sup>th</sup> May 2016.
24. That, on the date of the inspection, the weather was dry and overcast.
25. That, on inspection, the property is a 3 apartment flat located on the 4<sup>th</sup> floor at the west side of a modern development.

26. That the tenants, only, were present at the inspection.
27. That, on inspection, the double glazed door unit was located at the far west side of the living room with the kitchen area at the opposite side of this room.
28. That, on inspection, the double glazed door unit divided the living room from an exterior balcony.
29. That, on inspection, the living room floor was covered with carpet.
30. That, on inspection, the living room carpet was pulled back revealing chipboard flooring underneath.
31. That, on inspection, the chipboard flooring and carpet were visibly wet and felt wet to the touch.
32. That, on inspection, the area of the flooring which was wet ran the length of the double glazed door unit and extended approximately 1 metre from the door of the door unit.
33. That, on inspection, the wood which formed the interior skirting board was rotting underneath the double glazed unit.
34. That, on inspection of the exterior of the door unit, there was a temporary mastic seal applied to the foot of the door.
35. That, on inspection of the exterior of the door unit, a sill sat immediately underneath the door unit which was flat rather than at an angle.
36. That the flat position of the sill allows water to rest on it and seep into the interior of the property.
37. That, should the sill be positioned at an angle, water could flow downwards onto the balcony away from the door unit.
38. That the committee finds the door unit to be neither wind nor water tight.
39. That the committee finds the property to be neither wind nor water tight.
40. That there was no evidence before the committee that the landlord had attempted to carry out permanent repairs to the door unit.

41. That, on inspection of the living room/kitchen, the committee identified water damage to the ceiling of the kitchen area.
42. That, on inspection, the committee identified one battery operated smoke detector fitted to the ceiling of the living-room/kitchen area.
43. That the committee finds a failure on the part of the landlord to meet the repairing standard of section 13 (1) (a) of the Act.
44. That the committee proceeds to make a Repairing Standard Enforcement Order ("RSEO").

#### **Reasons for decision**

45. During the course of their inspection of the property the committee identified gaps around the door of the double glazed unit through which it was reasonably foreseeable that water could make its way into the property. The flooring of the living room immediately before the door unit was wet suggesting that water had come through the door into the property soaking the floor beneath. There was no evidence of any insects but in the absence of anything to the contrary from the landlord or letting agent, the committee accepted this evidence. The mastic seal at the exterior of the door appeared to have been applied relatively recently and to be a temporary repair. The flat surface of the sill running underneath the exterior of the doorway prohibited rain water from flowing from the sill onto the decking of the balcony below. Rather, the flat surface enabled the water to gather in a puddle and either, to drip off the sill or to seep into the property through the doorway. There being evidence of water entering the property and causing damage to the flooring and skirting of the living room, the committee was satisfied that the tenants' complaint be upheld. For all these reasons, the committee reaches the view that the landlord has failed to meet the repairing standard of section 13 (1) (a) of the Act.
46. The committee observed a hard wired smoke detector fitted to the ceiling of the living room/kitchen area of the property. No tests were undertaken to identify if the smoke detector was in proper working order as this formed no part of the tenant's application and there had been no prior notification of any complaint with the smoke detectors to the landlord. However the committee observed that the smoke detector was of an old style and should be replaced. Although the committee shall make no comment as to whether the smoke detectors met the repairing standard of section 13 (1) (f), it is recommended that the landlord provide and install smoke detection and alarm equipment in accordance with the British Standard on the design of fire detection installations for dwellings (BS5839 Part 6) in conjunction with the Scottish Government's Technical Handbook 2013 Domestic under Section 2 -Fire, Sub-section 2.11 Communication.



47. Although the committee identified water damage to the ceiling of the kitchen area, there was no evidence of water continuing to come through the ceiling. This not being part of the tenants' application and there having been no intimation of this to the landlord, the committee make no finding in connection with the water damage. By way of observation, the committee note that re-decoration of the ceiling area would address the existing damage.

### **Decision**

48. The committee determined that the landlord has failed to comply with the duties imposed by sections 13 (1) (a) and 14 of the Act.

49. The committee proceeded to make a Repairing Standard Enforcement Order as required by Section 24 (1). The Repairing Standard Enforcement Order has a time limit of 4 weeks from the date of service of the Order for the landlord to carry out works necessary to ensure that the property meets the repairing standard.

50. The decision of the committee was unanimous.

### **Right of Appeal**

51. 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.

52. 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 determined.

# Simone Sweeney

. Chair



37 East Princes Street,  
15 Charlotte Court, Helensburgh, G84 7DF  
PRHP/RP/16/0116  
Schedule of Photographs - Inspection Date 28/6/2016  
Weather – Overcast, dry



1. The Property



2. Balcony window/patio door screen



3. Screen – water damage at cill and skirting



4. Screen – water damaged chipboard flooring and carpet



5. Ponding at screen external cill



6. Ponding at screen external cill



7. Water damaged kitchen ceiling



8. Hall smoke detector