



## Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

**prhp Ref:** PRHP/RP/16/0140

**Re:** Property at 15 Cairn View, Belhelvie, Aberdeen, AB23 8SB

**Title No:** ABN95813

**The Parties:-**

**MR CHRISTOPHER JOHNSTON & MRS CHARLOTTE JONHSTON, 15 Cairn View, Belhelvie, Aberdeen, AB23 8SB (“the Tenants”)**

**MRS GAIL DAVIDSON residing at 55 Bingham Crescent, Aberdeen, AB13 0HU (“the Landlord”)**

### **NOTICE TO MRS GAIL DAVIDSON (“the Landlord”)**

Whereas in terms of their decision dated 19 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:-

1. 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;
2. Any fixtures, fitting and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order; and
3. The house has satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health.

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:-

- (a) To repair or replace the fan in the en-suite shower room on the first floor of the property to ensure that it is in a reasonable state of repair and in proper working order.
- (b) To repair or replace the gas fire in the lounge of the property to ensure that it is in a reasonable state of repair and in proper working order.
- (c) To repair or replace the gas hob in the kitchen of the property to ensure that it is in a reasonable state of repair and in proper working order to include in particular the repair or replacement of both the ignitor switch and the broken knob.
- (d) To produce a current Gas Safety Certificate confirming that the gas fire and the gas hob are in proper working order, safe to use and comply with the relevant regulations. The Landlord is to exhibit such Gas Safety Certificate to the Committee
- (e) To install a carbon monoxide alarm in the lounge of the property to comply with the relevant regulations.

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

**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.

In witness whereof these presents typewritten on this and the preceding page are executed by Gillian Coutts Buchanan, Solicitor, Whitehall House, 33 Yeaman Shore, Dundee, DD1 4BJ, Chairperson of the Private Rented Housing Committee at Dundee on 19 July 2016 before this witness:-  
G Buchanan

— witness

Chairperson

Ms Sarah Kidd  
Secretary  
Thorntons Law LLP  
Whitehall House  
33 Yeaman Shore  
Dundee DD1 4BJ



## Statement of decision of the Private Rented Housing Committee under Section 24 (1) of the Housing (Scotland) Act 2006

prhp Ref: PRHP/RP/16/0140

Re : Property at 15 Cairn View, Belhelvie, Aberdeen, AB23 8SB  
Land Register Title No. ABN95813 (“the Property”)

### The Parties:-

MR CHRISTOPHER JOHNSTON & MRS CHARLOTTE JONHSTON, 15 Cairn View, Belhelvie, Aberdeen, AB23 8SB (“the Tenants”)

MRS GAIL DAVIDSON residing at 55 Bingham Crescent, Aberdeen, AB13 0HU (“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 house concerned, and taking account of the evidence led by the Landlord at the hearing (the Tenants having previously removed from the Property and the Committee having determined to continue the application by Minute of Continuation dated 25 May 2016), determined that the Landlord had failed to comply with the duty imposed by Section 14(1)(b) of the Act. The Committee therefore issues a Repairing Standard Enforcement Order.

### Background

1. By application received between 7 and 18 April 2016 the Tenants applied to the Private Rented Housing Panel for a determination of whether the Landlord had 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 Tenants stated that the Tenants considered that the Landlord had failed to comply with her duty to ensure that the house meets the repairing standard and in particular that the Landlord had failed to ensure that:-
  1. Any fixtures, fitting and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order;
  2. Any furnishings provided by the landlord under the tenancy are capable of being used safely for the purpose for which they are designed; and
  3. The house has satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health.
3. By letter dated 20 April 2016 the President of the Private Rented Housing Panel intimated a decision to refer the application under Section 22(1) of the Act to a Private Rented Housing Committee.
4. The Private Rented Housing Committee served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon both the Landlord and the Tenants.
5. Following service of the Notice of Referral the Tenants, by correspondence dated 6 May and by email dated 10 May 2016, made written representations to the Committee. The

Landlord, by emails dated 26 May and 20 June 2016, also made written representations to the Committee.

6. The Committee issued a Notice of Direction to the Landlord dated 11 May 2016 which required the Landlord to provide by midday on 6 June 2016:-
  - a. The most recent Gas Safety Certificate; and
  - b. The most recent Electrical Installation Condition Report prepared by a suitably qualified electrician to confirm the current condition of electrical systems in the Property.
7. The Private Rented Housing Committee (comprising Miss G Buchanan, Chairperson and Legal Member, and Mr A Anderson, Surveyor Member) inspected the Property on the morning of 12 July 2016. Photographs were taken and a Schedule of Photographs is attached. The Landlord was present during the inspection together with the Landlord's new tenant, Ms Lara Polisciukaite.
8. At the time of the inspection it was fair and dry.
9. Following the inspection of the Property the Private Rented Housing Committee held a hearing at Credo Centre, 14-20 John Street, Aberdeen and heard from the Landlord. As the tenancy had been terminated prior to the hearing, the tenants were no longer party to the process and were not entitled to be heard or be represented.
10. In terms of their application, the Tenants submitted as follows:-
  - (a) That there were no electrical or gas safety certificates.
  - (b) That there had been no PAT testing of electrical appliances.
  - (c) That the gas boiler had not been serviced.
  - (d) That the gas fire in the lounge had been deemed unsafe to use.
  - (e) That there are a number of plug sockets that are loose or do not work or into which plugs could not be inserted.
  - (f) That the switch to the en-suite shower room was not working and therefore the light and fan did not work.
  - (g) That the main bathroom light was not fitted correctly.
  - (h) That the gas hob ignitor switch is broken and does not work.
  - (i) That the toilet needed repaired.
11. The Landlord submitted as follows:-
  - (a) That there was produced an Electrical Installation Condition Report dated 5 May 2016 indicating no action required.
  - (b) That there was produced a Gas Safety Certificate dated 26 February 2016 which was clear in respect of the boiler.
  - (c) That the gas fire in the lounge had been disabled by the gas engineer, Roy Stevenson, on 26 February 2016 due to the fire failing the testing process carried out. He disabled the fire by fracturing an "L" shaped fitting beneath to prevent the fire being turned on. He indicated that the failed testing was due to a problem with the flue.

- (d) That the Landlord did not accept the failure of the gas fire testing to be due to a problem with the flue but more likely due to the glass panel in the fire not being fitted correctly, and that she was trying to source a replacement for the fractured "L" shaped fitting to allow the fire to be tested afresh.
- (e) That the Tenants did not know the gas fire did not work prior to moving in.
- (f) That the hazard sticker applied to the gas fire by the gas engineer following its disablement had been removed by the Landlord in advance of viewings by potential purchasers of the Property.
- (g) That the gas fire has likely not been used since 2010.
- (h) That two new smoke detectors had been fitted in the lounge and the upper landing which were hardwired and interlinked.
- (i) That the plug sockets were not loose as alleged by the Tenants or may have been maliciously interfered with by the Tenants but in any event all plug sockets had been checked and tightened by an electrician.
- (j) That the carbon monoxide detector in the kitchen had been relocated to comply with the relevant regulations.
- (k) That a handheld ignitor had been supplied to light the gas hob in the kitchen which otherwise operated properly.
- (l) That the light in the main bathroom was fitted correctly.
- (m) That the fan in the en-suite shower room operated intermittently but in any event the en-suite window could be opened as required for ventilation.

**Summary of the issues**

12. The issues to be determined are:-

- (a) Whether Electrical Installation Condition Report dated 5 May 2016 was adequate and whether any outstanding repairs are required to electrical fittings or appliances in the Property.
- (b) Whether the Gas Safety Certificate dated 26 February 2016 was adequate relative to all fittings and appliances other than the gas fire and the gas hob.
- (c) Whether work is required to the gas fire in the lounge.
- (d) Whether work is required to the gas hob in the kitchen.
- (e) Whether the toilets operated correctly.
- (f) Whether the house has satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health.

**Findings of fact**

13. The Committee finds the following facts to be established:-

- (a) That the Electrical Installation Condition Report dated 5 May 2016 is clear with no category C1 or C2 notifications and is therefore adequate other than relative to the fan in the en-suite shower room which not operate.
- (b) That plug sockets were tight fitting.

- (c) That the main bathroom light fitting was tight fitting and operated correctly.
- (d) That the en-suite shower room light fitting was tight fitting and operated correctly.
- (e) That the Gas Safety Certificate dated 26 February 2016 is clear and therefore adequate relative to all gas fittings and appliances other than the gas fire in the lounge and the gas hob in the kitchen which were identified therein as being defective.
- (f) That the gas fire in the lounge does not operate and has been deemed defective and therefore unsafe to use.
- (g) That the ignitor switch on the gas hob in the kitchen does not operate.
- (h) That one of the knobs on the gas hob which turns on and off the flow of gas to one of the cooking rings is broken.
- (i) That there is no carbon monoxide detector in the lounge.
- (j) That the toilets did not need repaired and operated correctly.

**Reasons for the decision**

14. That the Property is a two storey detached house built around 2007. Accommodation comprises a vestibule, lounge with dining room on open plan, kitchen and utility room on ground floor. Landing, master bedroom with en-suite shower room, three further bedrooms and bathroom on the first floor. The house has gas central heating and the windows are double glazed. There is a single car integral garage.

Prior to the inspection the Landlord had produced an Electrical Installation Condition Report dated 5 May 2016 which was clear with no category C1 or C2 notifications identified. Whilst the Committee was satisfied that the EICR was therefore adequate with regard to the electrical installations within the Property as at 5 May 2016, the fan in the en-suite shower room was found not to be operational as at 12 July 2016. The Committee was satisfied that the defective fan constitutes a breach of the Repairing Standard which requires that any fixtures, fitting and appliances in the Property be in a reasonable state of repair and in proper working order.

Prior to the inspection the Landlord had also produced a Gas Safety Certificate dated 26 February 2016 which was clear relative to the boiler but which identified as defective the gas fire in the lounge and the gas hob in the kitchen.

The Landlord accepted that the gas fire did not work and had not worked at the outset of the Tenants' tenancy.

The Landlord also accepted that the ignitor on the gas hob did not work and that a knob on the gas hob was broken. The Committee did not accept the Landlord's suggestion that the provision of a hand held ignitor was adequate.

The Committee was satisfied that the defective gas fire constitutes a breach of the Repairing Standard which requires that (i) any fixtures, fitting and appliances in the Property be in a reasonable state of repair and in proper working order, and (ii) that any installations in the house for space heating be in a reasonable state of repair and in proper working order.

The Committee was satisfied that the defective gas hob also constitutes a breach of the Repairing Standard which requires that any fixtures, fitting and appliances in the Property be in a reasonable state of repair and in proper working order.

Given that the Committee considered the Repairing Standard had been breached with regard to the defective gas fire it followed that on the repair or replacement of the gas fire that a carbon monoxide detector would require to be installed in the lounge to comply with the relevant regulations.

The Committee checked plug sockets generally and the light fittings in the main bathroom and the en-suite and found these to be secure and operating correctly.

Committee also found the toilets to be operating correctly.

The Committee considered how long was required for the required works to be carried out and determined that 6 weeks would be sufficient.

### Observation

15. During the inspection the Committee noted that there was not the required provision for detecting or giving warning of fires in contravention of section 13(1)(f) of the Housing (Scotland) Act 2006. In particular, the Committee observed that there was no heat detector in the kitchen of the Property. The Committee expects the Landlord to install a heat detector which is hard wired and interlinked to the existing smoke detectors in the lounge and upper landing of the Property to comply with the Repairing Standard..

### Decision

16. The Committee accordingly determined that the Landlord had failed to comply with the duty imposed by Section 14(1)(b) of the Act.
17. The Committee proceeded to make a Repairing Standard Enforcement Order as required by section 24(1).
18. The Committee proceeded to serve notice upon Aberdeen City Council as required by section 24(6).
19. The decision of the Committee was unanimous.

### Right of Appeal

20. **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

21. 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.

G Buchanan

Signed .....  
Chairperso

..... Date 19 / 7 / 16 .....



**Schedule of Photographs**  
**15 Cairn View, Belhelvie, Aberdeen AB23 8SB**  
**Case Reference Number PRHP/RP/16/0141**  
**Date: 12/07/2016**



**Figure 1 Front Elevation**





Figure 2 Gas fire in Lounge



Figure 3 Gas hob in Kitchen



Figure 4 Gas hob control knobs



Figure 5 En-suite shower room.



Figure 6 En-suite shower room extractor fan