



## Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

**Reference number: -prhp/ RP/16/0144**

**Re: Property at 3 Top Left, Arklay Street, Dundee DD3 7LH ("the property")**

**Land Register Number- ANG9400**

**Mrs Gail Fraser, 3 Top Left Arklay Street, Dundee DD3 7LH ("the Former Tenant")**

**Mr Iain Ritchie and Mrs Elizabeth Ritchie, 7 Muirfield Road, Cumbernauld G68 0EX ("the Landlord")**

### **NOTICE TO:- Mr Iain Ritchie and Mrs Elizabeth Ritchie, 7 Muirfield Road, Cumbernauld G68 0EX ("the Landlord")**

Whereas in terms of their decision dated 21 August 2016, The Private Rented Housing Committee having determined that the Landlord has failed to comply with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 ("The Act") and in particular that the Landlord has failed to ensure that the property is:-

- (a) wind and water tight and in all other respects reasonably fit for human habitation;
- (b) that 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) that the installations in the house, 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
- (d) 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 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:-

1. *Repair/replace the kitchen units and worktops to ensure they are in a reasonable state of repair and are stable and safe.*
2. *Repair/replace the floor coverings throughout the property to reduce the trip hazard.*
3. *Inspect and repair/replace seals and double glazing units where appropriate to ensure they are in a reasonable state of repair.*
4. *Clean the gutters, remove plant growth and ensure that the external rainwater goods are in a reasonable state of repair and in proper working order.*
5. *Repair/replace worktop surround and seal at the kitchen sink ensure hygienic use.*
6. *Provide an up to date Electrical Installation Condition Report from a NICEIC or ECA registered contractor to show that the electrics in the property are in proper working order and to include functional testing of the cooker and the heating and removal of any appliances not in working order.*

The Private Rented Housing Committee order that the works specified in this Order must be carried out and completed within a period of 3 months 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.

**Please note that in terms of section 28(1) of the Act, a landlord who, without reasonable excuse, fails to comply with a RSEO commits an offence liable on summary conviction to a fine not exceeding level 3 on the standard scale. A landlord (and that includes any landlord's successor in title) also commits an offence if he or she enters into a tenancy or occupancy arrangement in relation to a house at any time during which a RSEO has effect in relation to the house. This is in terms of Section 28(5) of the Act.**

In witness whereof these presents type written on this and the preceding page are executed by Judith Lea, solicitor, chairperson of the Private Rented Housing Committee at Cupar on 21 August 2015 before this witness:-

Thomas Finnie

Judith Lea

\_\_\_\_\_ witness

\_\_\_\_\_ chairman

Thomas finnie  
School Brae  
letham  
Fife  
KY15 7RN



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

**Reference number: -prhp/ RP/16/0144**

**Re: Property at 3 Top Left, Arklay Street, Dundee DD3 7LH ("the property")**

**Land Register Number - ANG9400**

**Application received from Mrs Gail Fraser, 3 Top Left Arklay Street, Dundee DD3 7LH ("the Former Tenant")**

**Mr Iain Ritchie and Mrs Elizabeth Ritchie, 7 Muirfield Road, Cumbernauld G68 0EX ("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 written evidence provided by the Former Tenant and the written and oral evidence provided by the Landlord, determined that the Landlord had failed to comply with the duty imposed by Section 14(1)(b) of the Act.**

**Background**

1. By application dated April 2016 the Former Tenant 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 Former 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 that:- the house was wind and water tight and in all other respects reasonably fit for human habitation, 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, that the installations in the house, 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 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.
3. The President of the Private Rented Housing Panel intimated a decision to refer the application under Section 23(1) of the Act to a Private Rented Housing Committee.
4. The Private Rented Housing Committee served notice of the inspection and hearing on both the Landlord and the Former Tenant.
5. The Private Rented Housing Committee issued a Direction on 20 May 2016 requiring the Landlord to produce an up to date Electrical Installation Condition Report by 17 June. This was not complied with.
6. Prior to the inspection the Committee received confirmation from the Former Tenant that the tenancy of the house had been lawfully terminated. Given the nature of the complaints contained in the application the Committee considered that the application should be continued and determined on public interest grounds.
7. The Private Rented Housing Committee, comprising Judith Lea, Chairman and Legal Member and Geraldine Wooley, Surveyor Member inspected the property on 12 August 2016. The Landlord was represented at the inspection by Mark Cannings of PLPO, 80 High Street, Johnstone, Renfrewshire, PA58ST.

8. Following the inspection of the property, the Private Rented Housing Committee held a hearing at Caledonian House, Greenmarket, Dundee. The Landlord was represented at the hearing by Mark Cannings of PLPO. Mr Cannings explained that his company acted on behalf of the landlord but that they instructed Barry Gray as local agent. Mr Canning confirmed that he would send in documentation to show this. Mr Canning advised that it was accepted by the landlord that work was required at the property to bring it up to standard and that this would be done.
9. The Committee went through each of the Former Tenant's complaints with Mr Canning who accepted that work was required to address the following outstanding issues.
10. **ELECTRICAL INSTALLATION CONDITION REPORT**  
This has not been provided to the Committee and one is required to show that the electrics in the property are in proper working order and that the cooker and heating are functional. There was no electric turned on in the property at the time of inspection. There were loose wires at the back of the cooker. The Committee accordingly find that there may be a breach of s13(c) of the repairing standard. Any items highlighted as 1 or 2 in any EICR must be rectified.
11. **FLOORING**  
The thresholds between rooms in the property were uneven creating a trip hazard and in some areas the flooring was in a state of disrepair. This is a breach of s 13(d) of the repairing standard.
12. **KITCHEN**  
Some of the units in the kitchen were insecure and some of the work surfaces in a state of disrepair. The splash back at the sink was unsealed and mouldy. The cooker was not correctly wired into a fixed cooker point. This is a breach of s13(d) of the repairing standard.
13. **WINDOWS**  
Some of the double glazed units in the property have failed. There was some evidence of disrepair. This is a breach of s13(a) of the repairing standard.
14. **HEATING**  
There were new heaters in the property but an old storage heater in the bedroom requires to be safely disconnected and removed.
15. **EXTERNAL**  
There was evidence of a lot of vegetation in the gutters which were blocked. A tree was growing on the roof. There is clearly a problem with water overflow down the side of the building which is a breach of s13(b) of the repairing standard. Although there was no evidence of damp internally there was damp in the external hall.
16. **SMOKE ALARMS**  
Hard wired smoke alarms were present in the property. There is no gas in the property.
17. The Committee asked Mr Canning how long he thought it would take to have the necessary work completed and he suggested a period of 3 months. The Committee agreed that this was reasonable as there is currently no tenant in the property. The landlord is reminded however that in terms of s28 of the Act it is an offence to relet the property while a Repairing Standard Enforcement Order is in place.

Photographs of the property as at the date of the inspection are attached at Appendix A

## **Decision**

18. The Committee accordingly 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 Repairing Standard Enforcement Order as required by Section 24(1).
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.

Judith Lea

Signed .....  
Chairperson

..... Date 21 August 2016



**APPENDIX A**

**PRHP Photo report**

**Flat 1/L Arklay St Dundee DD3 9QG**

Front elevation



Rear elevation showing blocked gutters



Windows showing damaged seals and double glazing units



**Kitchen – cupboards, worksurface, splashback and cooker power point**



**Uneven floor surfaces**



**Storage radiator not in use but wired in**



**Judith Lea**