

## **REPAIRING STANDARD ENFORCEMENT ORDER**

**Ordered by the Private Rented Housing Committee**

**Case Reference Number: PRHP/**

Re:- Property at 17 Calder View, Motherwell, ML1 1EQ

Land Register Title Number:- **LAN7345**

The Parties:-

Miss Maisie Campbell, residing at 17 Calder View, Motherwell, ML1 1EQ ("**the tenant**")

And

Miss Laila Shah per her agents Puffin Properties, having an office at Office 4, 2 Lower Auchingramont Road, Hamilton, ML3 6HW ("**the landlord**")

### **Notice to Laila Shah per her agents Puffin Properties**

Whereas in terms of the decision dated 15<sup>th</sup> April 2013 the Private Rented Housing Committee determined that the landlord had failed to comply with the duty imposed by Section 14(1) (b) of the Housing (Scotland) Act 2006 and in particular the landlord had failed to ensure that:-

The installations in the house for the supply of space heating 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 purpose of ensuring that the house concerned meets the repairing standard and that any damage caused by the carrying out of the works in terms of the order is made good.

In particular the Private Rented Housing Committee requires the landlord to carry out the following work:-

- To repair and/or replace the storage heater within the living room to render it into a reasonable state of repair and to render it in proper working order.

The Private Rented Housing Committee orders that the works specified in this Order must be carried out within twenty eight days of the date of this Order.

A landlord or tenant aggrieved by the decision of the Committee may appeal to the Sheriff by summary application within 21 days of being notified of that decision. The appropriate respondent in such appeal proceedings is the other party to the proceedings and not the PRHP or the Committee which made the decision.

Where such an appeal is made the effect of the decision or of the order is suspended until the appeal is abandoned or finally determined. Where the appeal is abandoned or finally determined by confirming the decision, the decision and the order are to be treated as having effect from the day on which the appeal is abandoned or so determined.

Signed **J Bauld** .....

Date 15 April 2013 .....

~~James Bauld~~, Chairperson

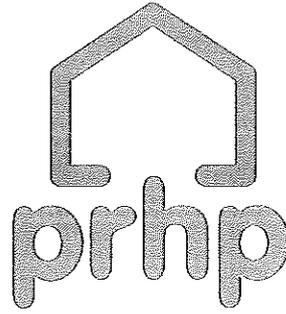
Signature of Witness **J Wilson** .....

Date 15 April 2013 .....

Name JONATHAN WILSON .....

Address 7 West George Street, Glasgow, G2 1BA

Designation TRAINEE SOLICITOR .....



## **Determination by Private Rented Housing Committee**

Statement of Decision of the Private Rented Housing Committee

(Hereinafter referred to as "the Committee")

Under Section 24(1) of the Housing (Scotland) Act 2006

Case Reference

Re:- Property at 17 Calder View, Motherwell, ML1 1EQ

Land Register Title Number:- **LAN7345**

The Parties:-

Miss Maisie Campbell, residing at 17 Calderview, Motherwell, ML1 1EQ ("**the tenant**")

And

Miss Laila Shah per her agents Puffin Properties, having an office at Office 4, 2 Lower Auchingramont Road, Hamilton, ML3 6HW ("**the landlord**")

### **The Committee comprised:-**

Mr James Bauld	-Chairperson
Mr Michael Links	-Surveyor Member
Mr Chris Harvey	-Housing Member

### **Decision**

The Committee unanimously decided that the landlord had failed to comply with the duties imposed by Section 14(1) (b) Housing (Scotland) Act 2006 ("the 2006 Act"). The Committee accordingly proceeded to make a repairing standard enforcement order (RSEO) as required by Section 24(2) of the 2006 Act.

### **Background:-**

1. By application dated 12<sup>th</sup> December 2012 the tenant applied to the Private Rented Housing Panel ("PRHP") for a determination that the landlord had failed to comply with the duties imposed by Section 14 (1) (b) of the 2006 Act.

2. In the application made by the tenant, the tenant stated that she considered that the landlord had failed to comply with her duties to ensure that the house met the repairing standard and in particular that the landlord had failed to ensure that:-
  - a) the house was 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 were in a reasonable state of repair and in proper working order;
  - c) that the installations in the house for the supply of water, gas and electricity and for sanitation, space heating and heating water were in a reasonable state of repair and in proper working order.
3. The tenant subsequently provided further written information to the Committee upon request. By letter dated 4<sup>th</sup> February 2013 the President of the Private Rented Housing Panel intimated a decision to refer the application under Section 22 (1) of the 2006 Act to a Private Rented Housing Committee.
4. By letter dated 4<sup>th</sup> March 2013 the Private Rented Housing Committee served a notice of referral under and in terms of the 2006 Act upon both the landlord's agent and the tenant indicating an inspection and hearing would take place on 25<sup>th</sup> March 2013. Intimation upon the landlord's agents has been accepted as intimation upon the landlord in terms of the relevant rules and regulations of the Private Rented Housing Panel.
5. The Committee inspected the property in the morning of 25<sup>th</sup> March 2013. The tenant was present during the inspection. The landlord was neither present nor represented.
6. Following the inspection of the property, the Committee held a hearing in Hamilton House, Hamilton Business Park, Caird Park, Hamilton, ML3 0QA. At that hearing neither the tenant nor the landlord was present nor represented.

### **Summary of Issues**

7. The issues complained of by the tenant in her application before the Committee can be summarised as follows:-
  - Front door was old and draughty.
  - Storage heater in the living room was not working.
  - The electrical sockets throughout the property were not working.
  - The plumbing for the bath was faulty.
  - The overflow in the external wall was not working properly.
8. During the inspection the tenant confirmed that she no longer wished to insist upon the elements of her application relating to the front door, the electrical sockets and the overflow. She indicated that these matters had all been resolved to her satisfaction.
9. During the inspection, the Committee examined the storage heater within the living room and noted that it was not working. The Committee also inspected the hot water storage tank in the downstairs cupboard which served the property. The Committee also generally inspected throughout the property.

### **The Hearing**

10. After the inspection, the Committee members held a hearing in Hamilton House. Said hearing had been intimated to all parties.
11. None of the parties attended the hearing.

12. During the hearing the Committee members considered the evidence which they had gained during the inspection and also took account of the application form lodged by the tenant and all subsequent correspondence remitted by both parties to the Private Rented Housing Panel. In particular the Committee noted that the landlords had provided written submissions dated 14<sup>th</sup> February 2013.
13. The Committee considered all the evidence which had been obtained during the hearing and decided that in respect of the faulty storage heater, the property would not meet the repairing standard and accordingly the Committee determined that they should make a Repairing Standard Enforcement Order.

### **Findings of Fact**

14. Having considered all the evidence the Committee found the following facts to be established:-
  - a) The subjects of let are a modern end terrace dwellinghouse in a reasonably new development. The property is of cavity brick construction. It has a tiled roof. The property consists of a living room and kitchen on the ground floor and two bedrooms and a bathroom on the first floor. The property has storage heaters in the living room and the hall. The property has no central heating system. The property has double glazed windows. It has garden grounds to the front and side of the property.
  - b) The living room had two storage heaters, fixed to opposite walls. One of the storage heaters was not working. The tenant indicated that it had never worked. The tenant was supplementing the heating with a plug in electric radiator.
  - c) Hot water to the property is provided by an immersion heater and hot water storage tank. The storage tank appeared to the Committee members to be approximately 90 litres in capacity. The Committee took the view that the storage tank was of an appropriate size for the property and was of the usual standard to be expected.

### **Reasons for Decision**

15. The Committee considered the issues of disrepair set out by the tenant and reached the following conclusions:-
  - With regard to the storage heater, it was clearly not working. It was clearly not in a reasonable state of repair nor was it in proper working order. The storage heater is an installation in the house for space heating and accordingly requires to meet the repairing standard. Accordingly the repairing standard was not met and the Committee determined that they were required in terms of Section 24(2) of the 2006 Act to make a Repairing Standard Enforcement Order in connection with this matter.
  - With regard to the tenants complaint that there was insufficient hot water the Committee took the view that the hot water immersion heating system was in a reasonable state of repair and was in proper working order. The capacity of the tank was of the type to be expected in that property. The Committee accordingly took the view that this installation for the supply of water and for heating water met the repairing standard and the Committee decided not to make any order in regard to this aspect of the application.
16. The decision of the Committee was unanimous.

**Rights of Appeal**

- 17. A landlord or tenant aggrieved by the decision of the Committee may appeal to the Sheriff by summary application within 21 days of being notified of that decision.
- 18. The appropriate respondent in such appeal proceedings is the other Party to the proceedings and not the PRHP of the Committee which made the decision.

**Effects of Section 63**

- 19. Where such an appeal is made, the effect of the decision and of any Order made in consequence of it is suspended until the appeal is abandoned or finally determined.
- 20. Where the appeal is abandoned or finally determined by confirming the decision, the decision and the Order made in consequence of it are to be treated as having effect from the day on which the appeal is abandoned or so determined.

Signed **J Bauld** .....

Date **15 April 2013** .....

~~James~~ Bauld, Chairperson

Signature of Witness **J Wilson** .....

Date **15 April 2013** .....

Name (please print) **JONATHAN WILSON** .....

Address: 7 West George Street, Glasgow, G2 1BA

Occupation **TRAINEE SOLICITOR** .....