



Rent Relief Order

Ordered by the Private Rented Housing Committee

**Property at 106 Dundee Drive, Cardonald, Glasgow G52 3HN
(hereinafter referred to as "the house")**

Mr. William Crawford, residing at the house ("the Tenant")

**Wearwell Properties Limited, a company incorporated under the Companies Acts
(Company number SC254022) and having its registered office at 50 Battlefield
Road, Glasgow G42 9QH ("the Landlord")**

PRHP REFERENCE-RP/13/0089

NOTICE TO Wearwell Properties Limited ("the Landlord")


Whereas in terms of their decision dated 14 February 2014, the Private Rented Housing Committee ("the Committee") determined in terms of Section 26(1) of the Housing (Scotland) Act 2006 (the "said Act") that the Landlord has failed to comply with the Repairing Standard Enforcement Order made by the Committee in relation to the house.

The Committee determined to make a Rent Relief Order in terms of Section 27 of the said Act reducing the rent payable under the tenancy for the house by an amount of 50% of the rent which would, but for the order, be payable. The rent reduction will take effect 28 days after the last date on which the decision to make the Rent Relief Order may be appealed under Section 64 of the said Act.

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. Where the appeal is abandoned or finally determined by confirming the decision, the Rent Relief Order will take effect 28 days after the date on which the appeal is abandoned or the decision is confirmed.

Aileen Devanny

Chairperson 
Private Rented Housing Committee
5 October 2014



DETERMINATION BY PRIVATE RENTED HOUSING COMMITTEE

**STATEMENT OF DECISION OF THE PRIVATE RENTED HOUSING COMMITTEE
UNDER SECTION
26(1) OF THE HOUSING (SCOTLAND) ACT 2006 ("the Act")**

In connection with

**Property at 106 Dundee Drive, Cardonald, Glasgow G52 3HN
(hereinafter referred to as "the house")**

Mr. William Crawford, residing at the house ("the Tenant")

**Wearwell Properties Limited, a company incorporated under the Companies Acts
(Company number SC254022) and having its registered office at 50 Battlefield
Road, Glasgow G42 9QH ("the Landlord")**

PRHP REFERENCE-RP/13/0089

NOTICE TO Wearwell Properties Limited ("the Landlord")

BACKGROUND

1. Reference is made to the Determination of the Private Rented Housing Committee ("the Committee") dated 14 February 2014 which decided that the Landlord had failed to comply with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act ("the Act") and the Repairing Standard Enforcement Order ("RSEO") made by the Committee which required the Landlord (1) to carry out repairs to the roughcast and repairs and /or replacement of all the windows at the house as are necessary to render the house wind and watertight and in all other respects reasonably fit for human habitation and to put the structure and exterior of the house in a reasonable state of repair and in proper working order; (2) to carry out repairs and draught proofing to the warped frame of the front door as are necessary to render the house wind an watertight and in all other respects reasonably fit for human habitation; (3) to have the boiler serviced and such other repairs carried out as may be required to render it in a reasonable state of repair and in proper working order so that an adequate supply of heating is delivered to the

house and to obtain an appropriate gas safety certificate prepared by a suitably qualified engineer; (4) to install a hard wired smoke detector in the house so as to ensure that the house has provision for detecting fires and for giving warning in the event of fire or suspected fire and to provide written evidence from a suitably qualified electrician that the smoke detection equipment has been tested and found to be satisfactory for the house; and (5) to ensure that any damage caused by the carrying out of any of the works in terms of the RSEO is made good (hereinafter collectively known as "the said repairs"). The said repairs to be carried out and completed within a period of 3 months from the date of service of the Notice of the RSEO. Service of the Notice of the RSEO was effected on the Landlord on 18 February 2014.

2. On 16 July 2014 Ms. Carol Jones, Surveyor Member of the Committee, in the presence of the Tenant and the Landlord's representative, carried out a re-inspection of the house for the purpose of ascertaining if the said repairs in the RSEO had been completed. A written report of her findings was submitted to the Committee and to the Tenant and Landlord indicating that none of the said repairs had been undertaken since the inspection on 13 January 2014 and the issue of the RSEO. Written representations were sought from the Tenant and Landlord to the findings in the written re-inspection report and on the issue of the compliance of the Landlord with the RSEO and the possibility of a Rent Relief Order and the sum of any rent reduction.

WRITTEN REPRESENTATIONS

3. The Tenant agreed with the findings of the Surveyor Member. The Tenant in representations indicated that no repairs had been carried out in years and that following a heavy rainfall on 3rd August 2014 a pail, basin and big pot had to be used to catch rain water at the bay window. He expressed concerns that the windows would not last the winter. He further indicated that rainwater was coming in under the front door. The Tenant mentioned that a gas engineer had examined the boiler on 25 July 2014 and that a report had been submitted to the Landlord. The Tenant considered a rent reduction of 30% appropriate.

The Landlord submitted no representations to the findings in the re-inspection report and provided no indication on the amount of any rent reduction considered appropriate. Checks on the Royal Mail website indicated that the notice enclosing the re-inspection report and the request for written representations on the report's findings had been received by the Landlord. The Tenant's written representations were circulated to the Landlord but no comments were received apart from a copy of the gas safety report submitted to the Panel on 23 September 2014.

DETERMINATION AND REASONS

4. The Committee, consisting of Mrs. Aileen Devanny, Legal Chairperson, Ms. Carol Jones, Surveyor Member, and Mr. Ahsan Khan, Housing Member, considered the

evidence and written representations. The Committee unanimously decided in terms of Section 26(1) of the Act that the Landlord had failed to comply with the RSEO and directed that a notice of the failure be served on the Local Authority on which the house is situated. The Committee did not consider that the inability to comply with the RSEO was due to a lack of necessary rights of access or otherwise as the Landlord possesses such rights in terms of his title and in terms of Section 181(4) of the Act. The evidence was clear from the inspection that the said repairs had not been carried out and this has not been challenged by the Landlord in written representations following the issue of the re-inspection report. The Committee considered whether a Rent Relief Order should be made in terms of Section 27 of the Act and determined that such an Order should be made given the Landlord's failure to comply with the RSEO. The Committee then went on to consider the amount of any rent reduction which should be made from the rent specified in the Lease.

30% has been suggested by the Tenant as the rent reduction. However, the Committee considered that this figure represented an inadequate rent reduction in all the circumstances and felt that a figure of 50% to be more appropriate. This acknowledges the serious disrepair to the house and failure by the Landlord to comply with an RSEO; the impact of the outstanding works on the Tenant's enjoyment of the house; and takes into account that the repairs had been outstanding for a considerable time. It reflects the inconvenience suffered by the Tenant of coping in inclement weather with catching water in containers and with water ingress at the front door; and also reflects that the Tenant has been living in a house which is unprotected by a satisfactory fire detection device which is in working order and the irresponsibility of the Landlord in not addressing this safety issue. However, it is not the maximum reduction which can be imposed in terms of the Act and in modifying the reduction to 50%, the Committee acknowledges that the Landlord has eventually provided a gas safety record to the panel on 23 September 2014 albeit sometime after the expiry of the time period for carrying out the works in the RSEO; and, furthermore, that there have been past communication problems between the parties in regard to the works. It is worth pointing out that if the Landlord proceeds to carry out the works, the impact of the rent reduction will be limited in duration.

5. The Committee determined that an appropriate reduction in rent would be 50% from the rental figure specified in the Lease. The Committee considered in accordance with the provisions of Section 63(4) and (5) of the Act that the rent reduction should be effective from 28 days after the last date on which the decision to make the Rent Relief Order may be appealed under section 64 of the Act.

DECISION

The Committee, having made such enquiries as is fit for the purposes of determining whether the Landlord has complied with the repairing standard enforcement order (hereinafter referred to as "the RSEO") in relation to the house concerned, and taking account of the written representations of the Tenant and Landlord, determined that the

Landlord had failed to comply with the RSEO in terms of Section 26(1) of the Housing (Scotland) Act 2006 and that a notice of the failure be served on the Local Authority in which the house is situated.

The Committee proceeded to make a Rent Relief Order in terms of Section 27 to take effect 28 days after the last date on which the decision to make the Rent Relief Order may be appealed under Section 64 of the Act.

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.

The appropriate respondent in such appeal proceedings is the other Party to the proceedings and not the Private Rented Housing Panel or the Committee which made the 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 28 days from the day on which the appeal is abandoned or so determined.

Aileen Devanny

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Chairperson,
5th October 2014