



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

PRHP Ref: PRHP/ML5/106/10

Re: The flatted dwellinghouse being the subjects situated at and known as Flat 1E Langloan Street, Coatbridge ML5 1HH, being the subjects registered in the Land Register of Scotland under Title Number LAN185539 ("the Property")

The Parties:-

MR JACEK LEDWON, residing at Flat 1E Langloan Street, Coatbridge ML5 1HH ("the Tenant")

and

MHAIRI SIOBHAN AINSWORTH, residing at 3 Stanley Park, North Biggar Road, Airdrie ML6 6EJ ("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) of the Housing (Scotland) Act 2006 ("the Act") in relation to the property, and taking account of the evidence led by the Tenant in writing and at the hearing, determined that the Landlord has failed to comply with the duty imposed by Section 14(1) (b) of the Act.

Background

- 1 By application to the Private Rented Housing Panel dated 28th July 2010 the Tenant applied to the Private Rented Housing Panel for a determination as to whether the Landlord had failed to comply with the duties imposed by Section 14(1) (b) of The Housing (Scotland) Act 2006.
- 2 By letter dated 22nd September 2010 the Private Rented Housing Panel intimated the decision of the President of the Panel to both the Landlord and the Tenant, to refer the application under Section 22 (1) of the Act to a Private Rented Housing Committee for determination.
- 3 In addition to the application to the Private Rented Housing Panel, the Tenant lodged with the Panel a copy of a letter addressed to the Landlord dated 15th July 2010 in which the Tenant had specified work which he believed required to be carried out to the Property to ensure that the Property met the Repairing Standard
- 4 The Private Rented Housing Committee wrote to both the Tenant and the Landlord by letter dated 22nd October 2010. That letter confirmed to both parties that the Private Rented

Housing Committee intended to inspect the Property on 15th November 2010 and thereafter to hold a hearing in relation to the Tenant's application on the same date.

- 5 The Private Rented Housing Committee inspected the property on the morning of 15th November 2010. The Tenant was present at the inspection along with his wife. The Landlord did not intend the inspection.
- 6 Following the inspection of the property the Private Rented Housing Committee held a hearing at The Georgian Hotel, 26 Lefroy Street, Coatbridge. The hearing was attended by the Tenant's wife, Mrs Ilona Ledwon, who had the authority of the Tenant to represent him at the hearing. Mrs Ledwon was assisted at the hearing by a Polish interpreter, Mr Slawomir Justynski. The Landlord did not attend the hearing.
- 7 In terms of his application the Tenant submitted that he considered the Landlord had failed to meet the Repairing Standard as the Property had the following defects:-
- (a) The Property was not wind and watertight. The roof of the property allowed rainwater to enter the property and in particular leaked into the kitchen of the property.
 - (b) The flooring in the kitchen area of the property had been damaged as a result of work which had been carried out by the Landlord to the property.
 - (c) The wooden laminate flooring in the hallway of the property had been damaged as a result of repairs which had previously been carried out by the Landlord to the property.
 - (d) The intercom system which allowed the Tenant to operate the front door intercom and to allow access through the front door of the property to visitors was inoperative.
- 8 The Committee's observations from their inspection of the property are as follows:-

	Complaint	Observation
(a)	Kitchen roof	The Committee noted that there was evidence of past water penetration through the kitchen roof. There was evidence of peeled paint on the roofing area and damp staining on the ceiling and wall of the kitchen and in kitchen cupboards. There was evidence of recent condensation over the bare plaster where it appeared there had been previous water penetration. The kitchen roof and the walls of the property were noted to be dry at the time of the inspection. Externally, the Committee noted that there were a number of raised slates on the roof immediately above the kitchen of the property. In particular it was noted that two slates had slipped from the roof and now rested in the gutter immediately above the kitchen window. Further the Committee noted damp staining to the external wall of the storage area of the property.
(b)	Kitchen flooring	The Committee noted that vinyl which had been laid in the kitchen floor was torn in places.
(c)	Hallway flooring	The Committee noted that a section of the wooden flooring in the hallway had been lifted and that rugs had been placed over these sections of flooring. The sections covered by these rugs were uneven.
(d)	Intercom	The Committee noted that the intercom handset within the property was not secured correctly to the wall. On testing the

		intercom the Committee noted that the intercom did not appear to operate and did not open the front common door of the property.
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Hearing

- 9 At the hearing it was explained to Mrs Ledwon that the Private Rented Housing Committee had the jurisdiction to determine whether or not the property meets the Repairing Standard in terms of Section 13(1) of the Act as at the date of the hearing. It was specifically explained to the Mrs Ledwon that the Committee did not have jurisdiction to grant any form of compensation in respect of any loss which the Tenant may ever had been incurred as a result of any failure on behalf of the landlord to ensure that the property meets the Repairing Standard.
- 10 The Committee heard evidence from the Mrs Ledwon.
- 11 Mrs Ledwon gave evidence to the Committee and noted that the Tenant and his family had moved into the property in June 2010. On moving into the property it was noted that there had been recent water ingress into the property through the kitchen roof. The Tenant had reported this to the Landlord. No action was taken by the Landlord and the Tenant sought the assistance of the Citizen's Advice Bureau ("CAB"). This CAB had telephoned the Landlord's letting agency in July 2010 at which time the Landlord had assured the CAB's representative that the necessary repairs would be carried out to the property.
- 12 At some point in July 2010 the Landlord arranged for some work to be carried out to the roof of the property. It was Mrs Ledwon's evidence that the tradesman instructed by the Landlord took access to the roof space above the Tenant's flat. He had laid some plastic sheeting, but carried out no further work. Mrs Ledwon was able to exhibit to the Committee photographs of the polythene sheeting which had been laid in the roof space Mrs Ledwon explained that following this work there continued to be water ingress into the property through the kitchen roof. The Tenant had taken access to the roof space and had injected water resistant foam into gaps in the roof where he believed the rainwater was entering the roof space. The effect of this work had been to mitigate the water ingress in the property. However, Mrs Ledwon explained that after this work had been completed, there continued to be water ingress into the property, particularly in periods of heavy rainfall. In particular Mrs Ledwon last noted serious water ingress into the property during a period of heavy rain over two days in October 2010. It was Mrs Ledwon's evidence that the property continued to be susceptible to water ingress, particularly at times of heavy rainfall.
- 13 In relation to the kitchen flooring Mrs Ledwon explained that the vinyl flooring which had been put on the floor of the kitchen had been laid by the Tenant himself. It was this flooring which the Tenant now complained had been damaged by work previously carried out by the Landlord at a time when work was being carried out to the boiler within the property.
- 14 With regard to the flooring in the hallway of the property Mrs Ledwon gave evidence that there had been a leak from their central heating system into the flat below. The neighbouring proprietor who had been affected by this leak had been given the details of the Tenant's Landlord and had contacted the Landlord directly. Shortly thereafter tradesmen (who the Tenant believed had been engaged by the Landlord) arrived at the Tenant's property and carried out the necessary repairs to the leaking central heating system. Whilst carrying out this work the tradesmen had required to lift a large section of the wooden flooring within the hallway. The tradesmen had not been able to replace the flooring which was thereafter stored at the entrance to the property. The tradesmen indicated that they were not able to relay the flooring and that the Landlord would require to engage another tradesman for this purpose. The Landlord had not arranged for the flooring to be relayed and as a consequence the Tenant had been left with an uneven floor surface. The Tenant had himself laid rugs over the bare patches of the floor, but this did not leave the flooring in a reasonable state of repair.

- 15 With regard to the intercom system Mrs Ledwon gave evidence that the intercom system had not operated since the day they had moved into the property. She was not able to operate the communal front door of the property through the intercom system. She explained that this had been reported to the Landlord and she had been advised to contact the Local Authority in this respect. Mrs Ledwon had spoken to the Local Authority but they indicated that (as it was the internal intercom telephone which appeared to be broken) it was the Landlord's responsibility to repair the intercom.

Reasons for the Decision

- 16 Having viewed the property and having heard the evidence of the Tenant's wife at the hearing the Committee were satisfied that some of the Tenant's complaints were justified and in particular that the Landlord had failed to comply with the duty imposed by Section 14(1) (b) of the Act in relation to the leak into the kitchen, the damaged flooring in the hallway, and the damaged intercom system.

The Committee had noted that the flooring in the kitchen which the Tenant alleged had been damaged by the Landlord had been laid by the Tenant himself. As this could not be regarded as a fixture, fitting or appliance provided by the Landlord or as a furnishing provided by the Landlord the Committee determined that they could take no further action in relation to that particular part of the Tenant's complaint.

- 17 The Committee accepted the Tenant's wife's evidence in relation to the leak in the kitchen roof. In particular the Committee accepted the evidence that the property continued to suffer from water ingress in periods of heavy rain. The Committee accordingly determined that as a consequence of this leak into the property the property was not wind and watertight and in all other respects reasonably fit for human habitation. (Section 13(1) (a) of the Act).
- 18 The Committee observed that part of the wooden flooring in the hallway had been lifted and had not been replaced. The Committee accepted the uncontested evidence of the Tenant's wife that the flooring had been lifted by tradesmen instructed by the Landlord. As the flooring was a fixture, fitting and appliance provided by the Landlord under the tenancy, the Committee determined that this fitting was not currently in a reasonable state of repair (Section 13(1) (b) of the Act).
- 19 The Committee had noted from its own observations that the intercom system required to operate the communal front door was not operational. The Committee determined that this was an appliance provided by the landlord under the tenancy and that it was not in proper working order. (Section 13(1) (d) of the Act).

Decision

- 20 The Committee accordingly determined that the Landlord had failed to comply with the duty imposed by Section 14(1) (b) of the Act. In particular the Landlord had failed to ensure that the property meets the Repairing Standard at all times during the tenancy. The Committee determined that the Tenant had notified the Landlord that work required to be carried out to the property and the Landlord had failed to carry out this work.
- 21 The Committee proceeded to make a Repairing Standard Enforcement Order as required by Section 24(2) of the Act. In particular the Committee requires the Landlord:-
- (a) To carry out such works as are necessary to the roof of the property to ensure the property is wind and watertight and in particular to ensure that there is no further water ingress into the kitchen of the property.

- (b) To carry out such works as are necessary to replace and/or repair the wooden flooring in the hallway so that it is in a reasonable state of repair and in proper working order.
- (c) To carry out such works as are necessary to repair and/or replace the intercom handset within the property so that it is in a reasonable state of repair and in proper working order.
- 22 The Committee further determined that any damage caused by the carrying out of any work in pursuance of these necessary repairs to the property was to be made good by the Landlord.
- 23 The Committee determined that the repairs required to the property must be completed within a period of 4 weeks of the date of intimation of the Repairing Standard Enforcement Order upon the Landlord.
- 24 The decision of the Committee was unanimous.

Right of Appeal

- 25 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

- 26 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.

A Cowan

Signed .../
Chairperson

..... Date..... 19/11/10

C A Millar

... ..Witness

Carol Anne Millar

7 West George Street
Glasgow G2 1BA



Repairing Standard Enforcement Order
Ordered by the Private Rented Housing Committee

PRHP Ref: PRHP/ML5/106/10

Re: The flatted dwellinghouse being the subjects situated at and known as Flat 1E Langloan Street, Coatbridge ML5 1HH, being the subjects registered in the Land Register of Scotland under Title Number LAN185539 ("the Property")

The Parties:-

MR JACEK LEDWON, residing at Flat 1E Langloan Street, Coatbridge ML5 1HH ("the Tenant")

and

MHAIRI SIOBHAN AINSWORTH, residing at 3 Stanley Park, North Biggar Road, Airdrie ML6 6EJ ("the Landlord")

NOTICE TO MHAIRI SIOBHAN AINSWORTH, residing at 3 Stanley Park, North Biggar Road, Airdrie ML6 6EJ ("the Landlord")

Whereas in terms of their decision dated 19th November 2010, 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 that the Landlord had failed to ensure 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 in particular:-

- (a) To carry out such works as are necessary to the roof of the property to ensure the property is wind and watertight and in particular to ensure that there is no further water ingress into the kitchen of the property.
- (b) To carry out such works as are necessary to replace and/or repair the wooden flooring in the hallway so that it is in a reasonable state of repair and in proper working order.
- (c) To carry out such works as are necessary to repair and/or replace the intercom handset within the property so that it is in a reasonable state of repair and in proper working order.

The Private Rented Housing Committee requires the Landlord to carry out such works as are necessary to make good any damage caused by the carrying out of the works required in terms of this order.

The Private Rented Housing Committee order that the works specified in this Order must be carried out and completed within four 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.

A Cowan

Signed ... ✓ Date: 19th November 2010
Chairperson

C A Millar

.....Witness

Carol Anne Millar
7 West George Street
Glasgow G2 1BA