



EDINBURGH, 19 February 2015

CERTIFIED A TRUE COPY OF ORIGINAL BY

John McHugh  
McCLURE NAISMITH LLP, Solicitors

**REPAIRING STANDARD ENFORCEMENT ORDER**  
Ordered by the Private Rented Housing Committee

**RE: Property at 1/1, 27 Underwood Street, Glasgow G41 3PE more particularly described in Land Certificate Title number GLA112594 (hereinafter referred to as "the House")**

**The Parties:**

**Diane Neville, formerly of 1/1, 27 Underwood Street, Glasgow G41 3PE (hereinafter "the Tenant")**

**Christopher John Sweeney, Flat 13, The Pines, 1 Millholm Road, Glasgow G44 3YB (hereinafter "the Landlord")**

**PRHP REFERENCE PRHP/RP/13/0188**

**NOTICE TO CHRISTOPHER JOHN SWEENEY**

WHEREAS in terms of their decision dated 19 February 2015 the 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 the House meets the repairing standard in that:

*"...(c) 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,...."*

The Committee now requires the Landlord to carry out such work as is necessary for the purposes of ensuring that the House 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 Committee requires the Landlord:

To produce a Landlords Gas Safety Certificate issued by a Gas Safe registered engineer confirming that the gas central heating system is in safe working order. That inspection should extend to and comment on the safety of the expansion vessel within the base unit adjacent to the boiler.

The Committee orders that the works specified in this Order must be carried out and completed within 30 days from the date of service of this Notice.

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 the decision.

Where such an appeal is made, the effect of the decision and 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 signed by John Miller McHugh, Chairperson of the Private Rented Housing Committee at Edinburgh on the Nineteenth day of February Two Thousand and Fifteen in the presence of the undernoted witness:

**John McHugh**

Chairperson

Witness

Witness Address *JURANUS McCAHILLÉ*  
*3 MONSON STREET, GYNAUGA 11*



**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**

**In connection with**

**1/1, 27 Underwood Street, Glasgow G41 3PE (hereinafter referred to as “the House”)**

**Diane Neville, formerly of 1/1, 27 Underwood Street, Glasgow G41 3PE (hereinafter referred to as “the Tenant”)**

**Christopher John Sweeney, Flat 13, The Pines, 1 Millholm Road, Glasgow G44 3YB (hereinafter referred to as “the Landlord”)**

**PRHP REFERENCE PRHP/RP/13/0188**

**DECISION**

The Committee, having made such enquiries as are 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 (hereinafter “the Act”) in relation to the House, taking account of the written documentation attached to the application and submitted by the parties and the Landlord’s representations at the inspection, determined that the Landlord had failed to comply with the duty imposed by section 14(1)(b) of the Act.

**Background**

By application dated 18 December 2013 (hereinafter “the Application”), the Tenant applied to the Private Rented Housing Panel (hereinafter “the PRHP”) for a determination of whether the Landlord had failed to comply with the duties imposed by section 14(1)(b) of the Act.

The Application stated that the 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 compliance with the following paragraphs of section 13(1) of the Act:

*“(c) 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,...*  
*(d) any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order...*  
*(e) any furnishings provided by the landlord under the tenancy are capable of being used safely for the purpose for which they are designed,...”*

The Tenant complained of the following defects in the House: a problem with one of the double glazed windows in the living room; missing tiles in the bathroom; a condemned fire place; and an insecure expansion vessel forming part of the central heating system.

By letter of 6 January 2014, the President of the PRHP intimated a decision to refer the application under section 23(1) of the Act to a Private Rented Housing Committee (hereinafter referred to as “the Committee”).

On 3 March 2014, having been informed that the tenancy had been terminated, a Committee, consisting of the President of the PRHP and Jacqui Taylor, Legal Member, issued a Minute of Continuation under paragraph 7(3) of Schedule 2 to the Act.

The matter was subsequently referred to a further Committee which comprised the following members:

John McHugh, Chairperson  
Andrew Taylor, Surveyor Member

The Committee served Notice of Referral in terms of Paragraph 1 of Schedule 2 to the Act upon the Landlord and the Tenant.

The Committee inspected the House on 17 February 2015. The Tenant was not present. The Landlord was present.

Following the inspection, the Committee held a hearing at the office of the PRHP, Europa Building, 450 Argyle Street, Glasgow. The Landlord did not attend, having confirmed at the inspection that it was not his intention to do so. The Tenant did not attend.

### **Submissions at the Hearing**

There being no oral representations at the hearing, the Committee considered the parties’ written representations and the information obtained at the inspection.

## **Summary of the Issues**

The issue to be determined is whether the House meets the repairing standard as laid down in section 13 of the Act and whether the Landlord has complied with the duty imposed by section 14(1)(b).

## **Findings in Fact**

The Committee confined their inspection to the items of complaint detailed within the Tenant's Application.

The Committee made the following findings in fact:

The House is a first floor flat in a traditional tenement block.

The Landlord and Tenant entered into a tenancy agreement in respect of the House dated 1 July 2013.

The Landlord is the registered owner of the House.

The Tenant was in occupation of the House from July 2013 until January 2014.

The provisions of Chapter 4 of Part I of the Act apply to the tenancy.

The Tenant notified the Landlord of the defects in the House which are now the subject of the Application by her emails to the Landlord's letting agent of 2 July and 16 December 2013.

The inspection on 17 February 2015 revealed:

The top middle double glazed unit in the living room window has failed and condensation is present between the panes of glass.

All tiles are in place in the bathroom.

The fireplace in the living room has been removed and plaster board has been used to fill in the area formerly occupied by it.

The central heating was providing heat to the radiators.

The expansion vessel in the kitchen cupboard below the boiler is in the same condition as when it was the subject of complaint by the Tenant.

## **Reasons for the Decision**

### *Living room window*

The window is misted from failure of the double glazing unit and, while replacement might be beneficial from a cosmetic point of view, it is not required to meet the repairing standard.

### *Bathroom Tiles*

The Bathroom tiles are all intact and attached to the wall.

### *Fireplace*

The fireplace has been removed and plaster board has filled the gap left behind.

### *Central heating expansion vessel*

The Tenant evidently had a concern about the situation of the vessel. The Landlord advised the office of the PRHP on 16 February 2015 that the central heating system was not in full working order and required repair. There is therefore a concern that the system may not be in safe working order. The Landlord is currently engaged in renovation and, at the inspection, advised that he has not yet decided what will happen to the House after the works are complete. There appears a chance that, while the House is at present unoccupied, it may be let again in future. Accordingly, the Committee considers it appropriate to make a Repairing Standard Enforcement Order in relation to this matter.

## **The Repairing Standard**

The Committee consider that the defect in relation to the central heating constitutes a breach of the repairing standard.

## **Observations**

The Committee had on 12 December 2014 made a direction requiring the Landlord to produce documentation demonstrating that the House was, as the Landlord claimed, unoccupied, as the Committee wanted to be certain that the House was not being let by the Landlord to any third party. The Landlord failed to respond to the Direction. The Committee has therefore seen no documentary evidence confirming that the House has not been let in the period between the Application being made and the present day.

## **Repairing Standard Enforcement Order**

Having decided to make a Repairing Standard Enforcement Order, the Committee considered the length of time which should be provided for compliance.

The Committee elected to impose a period of 30 days having regard to the nature of the defect identified.

## **Decision**

The Committee, considering the terms of section 13(3) of the Act, 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 a Repairing Standard Enforcement Order as required by section 24(2) of the Act.

The decision of the Committee was unanimous.

## **Right of Appeal**

**Section 64 of the Act provides a right of appeal to a landlord or tenant aggrieved by a decision of a private rented housing committee. An appeal may be made to the Sheriff within 21 days of the Landlord or Tenant being informed of the decision.**

Where such an appeal is made, the effect of the decision and 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.

John M McHugh  
Chairperson

Date: 19 February 2015