



**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**

Ref: PRHP/RP/14/0031

Re property at: Flat 2/1, 138 Dorchester Avenue, Glasgow, G12 0EA, being the subjects registered in the Land Register of Scotland under Title Number GLA199856 ("the Property")

The Parties:-

Miss Paula Taggart, residing at Flat 2/1, 138 Dorchester Avenue, Glasgow, G12 0EA ("the Tenant")

And

Jonathan Williams and Jennifer Williams, residing at 1 Queens Gate, 127 Dowanhill Street, Glasgow G12 9DN ("the Landlords")

Decision

The Committee, having made such enquiries as it saw fit for the purpose 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 concerned and, taking account of the evidence submitted by both the Landlords and the Tenant in writing, determined that the Landlords have failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

The Committee consisted of:-

Mr Andrew Cowan	-	Chairperson
Mr Kingsley Bruce	-	Surveyor member
Ms Mary Lyden	-	Housing member

Background

1. By application dated 31 January 2014, the Tenant applied to the Private Rented Housing Panel for a determination as to whether the Landlords have failed to comply with the duties imposed by Section 14 (1)(b) of the Act.

2. The application by the Tenant stated that the Tenant considered that the Landlords had failed to comply with their duty to ensure that the property meets the repairing standard and the Tenant brought forward the following alleged breaches:-
 - (a) The Tenant alleges that the roof of the property requires repair and that tiles need to be replaced. In particular, the Tenant has complained of rainwater leakage into her top floor property from the roof and has also complained of mould within two of the rooms within the property which she alleges has formed on the ceiling corners in at least two of the rooms of the property as a direct consequence of water ingress through the roof and a failure to maintain the roof. As a consequence the Tenant maintains that the house is not wind and watertight and in all other respects not reasonably fit for human habitation and further maintains that the structure and exterior of the house are not in a reasonable state of repair and in proper working order.
 - (b) The Tenant further maintains that the path which leads to the bin storage area at the rear of the property is in a dangerous state of repair. The Tenant maintains the paved path leading to the bins has loose slabs and there are holes in the pathway and in general the pathway is dangerous. Accordingly, the Tenant maintains that the pathway (as part of the structure and exterior of the house) is not in a reasonable state of repair and in proper working order.
 - (c) The Tenant maintains that the garden area itself is covered in debris and is not fit for use as a garden area.
3. By letter dated 7 July 2014 the President of the Private Rented Housing Panel intimated a decision to refer the application under Section 22(1) of the Act to a Private Rented Housing Committee.
4. By email dated 27 July 2014 the Landlords intimated that they wished the opportunity to make an oral representation at a Hearing in relation to the matter. At that time the Landlords lodged a written statement regarding the issues which had been raised by the Tenant together with copies of a draft Constitution for a Residents' Association at the address and a quote from L Wilson Builders in relation to proposed work to the roof and chimneys at the property.
5. On 22 August 2014 the Private Rented Housing Committee wrote to both the Landlords and the Tenant to advise that the Private Rented Housing Committee intended to inspect the property on 12 September 2014 at 10am. That letter further confirmed that a Hearing had been arranged in relation to the application, which Hearing would be held in the offices of the Private Rented Housing Panel at Europa Building, 450 Argyle Street, Glasgow G2 8LH. The parties were advised that the Hearing would be held at 11am on 12 September 2014.

The Inspection

6. On 12 September 2014 the Private Rented Housing Committee attended at the property for the purposes of inspection of the property. The Tenant was present at the inspection. The Landlords were not present and were not represented.
7. At the inspection on 12 September 2014 the Committee noted the following points:-
 - (a) Within the property there was evidence of previous water ingress through the ceiling of three rooms within the property. This included signs of water ingress in the living room ceiling to the rear of the property. There was further evidence of damp in the corner of the front bedroom of the property and in the second bedroom to the front of the property where there was also evidence of water ingress and mould. The Surveyor member had the opportunity to inspect the roof space directly above the property and from his observations was able to note that there were indications of rainwater ingress to the underside of the roof and that a tarpaulin had been laid across the ceiling joists, assumed to be for prevention of water penetrating the flat. From external inspection, whilst standing at street level to the front of the tenement, extensively there were slipped, missing and damaged roof tiles/ridge pieces which would allow water ingress across visible roof slopes.
 - (b) The which leads from the stairs at the rear of the property around the garden area and towards the bin storage area has a number of loose slabs and there are holes in the pathway. Sections of the second set of stairs leading down onto the lower part of the garden area are also in disrepair.
 - (c) The Committee did not observe any particular issues with the garden area itself.

The Hearing

8. Although the Hearing had been intimated to both the Landlords and the Tenant neither of the parties attended the Hearing.

Discussion on Evidence

- (a)(i) In relation to the Tenant's complaint of water ingress and mould growth the Committee were satisfied from their own observations that the property has suffered from and continues to suffer from water ingress and dampness. The Landlords have indicated in their written submissions that they accept that the property is not wind and watertight. The Landlords have indicated that they have taken steps to consult with other owners in the property who have a common share and interest in the roof of the property. Any repairs required to the property are accordingly communal

repairs. The Landlords have taken steps to organise the other owners within the property through the Constitution of a Residents' Association and there is agreement as to the shares which each owner should pay towards any necessary repairs in this respect. In their submission, the Landlords have confirmed that they expect to carry out necessary works to the roof of the property once each of the other owners has deposited in a named bank account their share of the cost of the necessary repairs. The Landlords further confirmed that completion of the necessary repairs to the roof will "mean that we have a wind and watertight roof".

- (a)(ii) In respect of this matter, the Committee note the steps which the Landlords have taken to take forward the necessary repairs to the roof. The Landlords do not dispute that works are necessary to the common roof of the property to ensure that it is wind and watertight. The Landlords do not dispute that the necessary repairs to the roof fall within their areas of responsibility nor do they dispute that they have the necessary rights of access or otherwise to carry out the repairs to the common parts. The Landlords have a duty to ensure that all repairs for which they are responsible, either solely or in common with others, are carried out within a reasonable time of the Landlords being aware that the work is required. Nine months have now passed since the Tenant formally raised this issue of disrepair with the Landlords. The Committee considers that the Landlords have had a reasonable amount of time to carry out the necessary repairs to the roof.
- (b) With regard to the pathway at the rear garden, the Landlords indicated in their written submission that "the path to the bin area has been repaired and the moss growing in the slabs removed. Slabs have been repaired. The hole in the steps has been repaired." This did not in any way accord with the Committee's own observations at the inspection. The Committee observed that the pathway and part of the steps which leads to the lower part of the garden area are in disrepair and are potentially dangerous to users of the pathway.
- (c) The Committee noted that the Landlords had indicated in their written statement that certain works had been carried out to the rear garden area. The Committee accepted that there was no current evidence that the garden area itself was in a state of disrepair.

Decision

9. The Committee accordingly determined that the Landlords have 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 24.1 of the Act.
10. The decision of the Committee was unanimous.

11. In particular, the Private Housing Committee require the Landlords:-

- (a) To carry out such works as are necessary to repair the roof of the subjects in which the property is situated so that the property is wind and watertight and in all other respects reasonably fit for human habitation and so that the structure and exterior of the house is in a reasonable state of repair and in proper working order; and
- (b) To carry out such works as are necessary to repair and maintain the rear pathway leading from the steps at the rear of the property to the bin storage area (and including the lower set of steps which lead to the lower part of the garden ground) so that the pathway and steps are in a reasonable state of repair and in proper working order.

12. The Committee considered that it would be reasonable to allow a period of four weeks from the date of the RSEO to carry out the works.

Right of Appeal

13. 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

14. 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.

Signed . . . **A Cowan** Date..... *10/10/14*

Andrew Cowan, Chairperson

L McManus

.....Witness

Laura McManus, Secretary, 7 West George Street, Glasgow, G2 1BA



Repairing Standard Enforcement Order
Ordered by the Private Rented Housing Committee

Ref: PRHP/RP/14/0031

Re property at: Flat 2/1, 138 Dorchester Avenue, Glasgow, G12 0EA, being the subjects registered in the Land Register of Scotland under Title Number GLA199856 ("the Property")

The Parties:-

Miss Paula Taggart, residing at Flat 2/1, 138 Dorchester Avenue, Glasgow, G12 0EA ("the Tenant")

And

Jonathan Williams and Jennifer Williams, residing at 1 Queens Gate, 127 Dowanhill Street, Glasgow, ("the Landlord")

NOTICE TO

Jonathan Williams and Jennifer Williams, residing at 1 Queens Gate, 127 Dowanhill Street, Glasgow,
("the Landlord")

Whereas in terms of their decision dated 10 October 2014, the Private Rented Housing Committee 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 wind and watertight and that the pathway at the rear of the property is in a reasonable state of repair.

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 to carry out such works as are necessary to:-

- (a) carry out such works as are necessary to repair the roof of the subjects in which the property is situated so that the property is wind and watertight and in all other respects reasonably fit for human habitation and so that the structure and exterior of the house is in a reasonable state of repair and in proper working order; and
- (b) carry out such works as are necessary to repair and maintain the rear pathway leading from the steps at the rear of the property to the bin storage area (and including the lower set of steps which lead to the lower part of the garden ground) so that the pathway and steps are in a reasonable state of repair and in proper working order.

The Private Rented Housing Committee order that the works specified in this Order must be carried out and completed within the period of 4 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.

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 page and the preceding page are executed by Andrew Cowan, chairperson of the Private Rented Housing Committee at Glasgow on 10 October 2014 before this witness:-

Signed .. **A Cowan** Date 10 October 2014

Andrew Cowan, Chairperson

L McManus Witness

Laura McManus, Secretary, 7 West George Street, Glasgow, G2 1BA