



**REPAIRING STANDARD ENFORCEMENT ORDER**

by the

**PRIVATE RENTED HOUSING COMMITTEE**

The Property

34/18, Valeview Terrace, Bellsmyre, Dumbarton G82 3BN being the subjects registered in the Land Register for Scotland under Title Number DMB49694 ("the Property")

The Parties

Ms Nancy Staquet, residing at the Property ("the Tenant")

David Elliot residing at 68 Argyll Avenue, Dumbarton G82 3NS and Thomas Elliot, residing at 17 Glebe Park, Mansewood, Dumbarton G82 3HG ("the Landlords")

David Elliot, aforesaid, Thomas Elliot and Louise Elliot, spouses, residing at 17 Glebe Park, aforesaid ("the Registered Proprietors")

Reference number: –PRHP/RP/14/0041

**REPAIRING STANDARD ENFORCEMENT ORDER ('RSEO')**

1. **WHEREAS** in terms of their decision dated 8 October 2014 the Private Rented Housing Committee ('the Committee') determined that the Landlords had failed to comply with the duty imposed by section 14(1)(b) of the Housing (Scotland) Act 2006 ('the Act') and in particular the property fails to meet the repairing standard as set out in section 13(1) of the Act.
2. The Committee now requires the Landlords to carry out such work as is required to ensure the property meets the repairing standard and that any damage caused

as a consequence of carrying out of any works in terms of this Order is made good before the expiry of the Completion Date.

### **THE ORDER**

3. In particular, and without prejudice to the foregoing generality, the Committee **HEREBY ORDERS** the landlord to carry out the following repairs ('the Works');-

1.1. To provide the Tenant with a key for the patio door.

1.2. To engage a suitably qualified tradesman to inspect the patio door and to carry out such work to it as is necessary to make it wind and watertight and to ensure that it is properly housed on its runners.

1.3. To replace the sealed glass in the double glazing units in the kitchen and in one of the windows in the rear bedroom (right).

1.4. To engage a suitably qualified plumber to check and rectify the operation of the shower and provide instructions on its operation to the Tenant.

4. The Committee **HEREBY FURTHER ORDERS** that the Works specified in this Order must be carried out and completed before the expiry of the Completion Date of two months from the date of service of this Order.

### **RIGHT OF APPEAL**

5. A Landlord or Tenant has the right to appeal this decision to the Sheriff by summary application within 21 days of being notified of that decision.

### **EFFECT OF APPEAL**

6. In terms of section 63 of the Act, where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by confirming the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.

**NOTICE TO LANDLORD**

7. 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 are subscribed as follows:-

**D Preston**  
.....Chairman

**N Preston**  
.....Witness

17/10/14 .....Date of Signing

Niall Graham Preston .....Name

GLASGOW .....Place of Signing

57, STRATHKELVIN DA. ....Address

GLASGOW .....

G13 1SH .....

.....1.....



## PRIVATE RENTED HOUSING COMMITTEE

### STATEMENT OF DECISION OF THE PRIVATE RENTED HOUSING COMMITTEE UNDER SECTION 26(1) OF THE PRIVATE RENTED HOUSING PANEL (APPLICATIONS AND DETERMINATIONS)(SCOTLAND) REGULATIONS 2007

#### In connection with

##### The Property

34/18, Valeview Terrace, Bellsmyre, Dumbarton G82 3BN being the subjects registered in the Land Register for Scotland under Title Number DMB49694 ("the Property")

##### The Parties

Ms Nancy Staquet, residing at the Property ("the Tenant")

David Elliot residing at 68 Argyll Avenue, Dumbarton G82 3NS and Thomas Elliot, residing at 17 Glebe Park, Mansewood, Dumbarton G82 3HG ("the Landlords")

David Elliot, aforesaid, Thomas Elliot and Louise Elliot, spouses, residing at 17 Glebe Park, aforesaid ("the Registered Proprietors")

Reference number: – PRHP/RP/14/0041

##### The Committee

David M Preston, (Chairman), Ms Carol Jones, (Surveyor Member) and Scott Campbell (Housing Member)

#### Decision

The Committee, having made such enquiries as are fit for the purposes of determining whether the Landlords have complied with the duty imposed by Section 14 (1)(b) in relation to the house concerned, and taking account of the evidence led by the Parties at the hearing as well as their written representations, determined that the Landlords had failed to comply with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 (hereinafter referred to as "the Act").

#### Decision

1. The Committee determined that the Landlords had failed to comply with the duty imposed by Section 14 (1)(b) of the Act. In particular it found that:
  - 1.1. The Tenant had not been provided with a key for the patio door.
  - 1.2. The patio door was defective and required attention by a suitably qualified tradesman to make it wind and watertight and to ensure that it was properly housed on its runners.
  - 1.3. The seals in the double glazing units in the kitchen and in one of the rear bedroom windows (right) had blown and should be replaced.
  - 1.4. The operation of the shower should be checked by a suitably qualified plumber and instructions on its operation provided to the Tenant.
2. The Committee proceeded to make a Repairing Standard Enforcement Order as required by section 24(1).
3. The decision of the Committee was unanimous.

### **Background**

1. Reference is made to the Determination of Private Rented Housing Committee dated 29 May 2014.
2. By letter dated 26 June 2014 the Parties were advised of the date and time of the postponed hearing of the application.
3. In her application dated 8 February 2014 the Tenant complained that the Property failed to meet the Repairing Standard in respect of grounds (c), (d) and (f) of section 13(1) of the Act. In particular she complained that:
  - a. She was not sure that the electric installations were satisfactory.
  - b. She was not sure that the House had satisfactory provision for detecting fires.
  - c. The window in the living room had no key and she was concerned about the security of the Property. She complained that the window was not draught-proof and that the door was faulty.
  - d. The shower was not working properly.
  - e. Double glazing units were faulty.
4. In a telephone call to PRHP on 17 March 2014 the Tenant advised that she was happy with the smoke detectors installed by the fire service and did not wish to pursue this matter or the electrical installations issue. The Tenant confirmed this as her position at the inspection and at the hearing.

### **Inspection and Hearing**

1. An inspection of the Property was carried out by the Committee at 10.00am on Wednesday 8 October 2014. Present at the inspection were: the Tenant; Iain MacLean, Panel Clerk; and Ms Madeline Halley, Interpreter.
2. David Elliot and Mrs Laura Elliot attended at the Property at the time of the inspection to represent the Landlords. Neither Thomas Elliot nor Louise Elliot attended. Prior to the time of the inspection the Tenant had advised that she did

not want the landlords to attend or to be admitted to the Property. The Committee advised David Elliot that he would not be admitted to the Property and that the Committee had no power to order the Tenant to allow him to enter. Mr & Mrs Elliot left with the intention of attending the scheduled hearing. The Tenant became extremely distressed when Mr & Mrs Elliot arrived at the property and required some time to compose herself after they had been refused entry.

3. It was apparent to the Committee that there were considerable relationship difficulties between the parties since the commencement of the lease. However these were matters with which the Committee had no power or place to intervene. The function of the Committee was restricted to the situation relative to the matters complained about by the Tenant in her application. The problems in the relationship were apparent from the terms of the email correspondence between the parties which had been produced. Both parties attempted to introduce information which did not relate to the issues in hand and the Committee was careful to exclude such from its deliberations in relation to the relevant issues.
4. The inspection revealed that the Property comprised a second (top) floor flat in a tenement of six flats entering by a common entrance and stair. The accommodation consisted of two bedrooms, living room, kitchen and bathroom. The Property was in good decorative order and was sparsely furnished. The property was carpeted throughout and all carpets, kitchen and bathroom fittings were in good condition.
5. The Tenant pointed out to the Committee that other flats in the tenement had comparatively new glazing units and doors. The Committee was not concerned with the provision of amenities in any flats apart from the Property subjects and took no account of the Tenant's representations in that regard.
6. The Committee confined its detailed inspection to the issues raised by the Tenant in relation to the living room window, the double glazed units and the operation of the shower.
7. Following the inspection, a hearing was convened at the offices of PRHP. The Tenant declined to attend the hearing as she did not want to meet the landlords. Accordingly she requested that she participate in the hearing by telephone. The Committee was happy to proceed on that basis.
8. Present at the hearing were: Mr David & Mrs Laura Elliot; and Ms Madeline Halley, Interpreter. It was agreed prior to the start of the hearing that the interpreter would be available to translate anything of which the Tenant was not clear or was unable to understand. The Tenant agreed that there was no need for the interpreter to translate the entire proceedings.
9. At the outset of the hearing the Chairman outlined the procedure which it was intended to follow. Since neither Mr nor Mrs Elliot had been in attendance at the inspection, he advised those present generally of the findings from the inspection. He confirmed that the inspection had proceeded upon the basis of the application dated 8 February 2014. It was understood that there had been subsequent applications by the Tenant but that the necessary notices had not been given due to a lack of time. The Chairman therefore advised that the issues to be considered related to: the alleged failure in two double glazed units; alleged problems with the living room window which could be described as a sliding or patio door to the balcony; and an alleged problem with the shower. The Tenant

- confirmed that she did not wish to proceed with the matters raised in the application in relation to the electric installations and the fire detection system.
10. The Chairman advised that the Committee had noted at the inspection that the double glazed units in the kitchen and in the rear bedroom (right) had condensation in them and the seals appeared to have blown; the patio door had no lock, which it was reported had been removed by the Tenant and the door appeared to have dropped on its runners; and the shower appeared not to deliver hot water which was available from the bath tap.
  11. The Committee sought comments from the parties in relation to these matters.
  12. Mr Elliot was shown photographs taken by the Committee of the double glazing units and the position was described to him. He acknowledged that the units may have been faulty and accepted that if that was what the Committee had seen, he would attend to their replacement.
  13. Mr Elliot was shown photographs of the patio door. He was concerned that the locking mechanism had been removed. The Tenant denied ever having received a key for the lock and had been concerned about the security of the flat as the patio door had been unlocked when she took entry. Mr Elliot maintained that the Tenant had been provided with keys for the front and patio doors. The Committee noted that the Tenant had complained about the lack of a key for the patio door in an email to him of 31 January 2014, which was one week after taking entry. She had maintained that position since then. The Committee accepted on a balance of probabilities that the Tenant had not been provided with a key.
  14. The Tenant explained that she had attempted to resolve the issue in the absence of a key by removing the locking mechanism and fitting a padlock. The Committee noted that the lock had been removed at the time of the inspection, but the mechanism was in the flat.
  15. The Committee noted a problem with the patio door and noted that it was draughty at the top right hand edge of the sliding door when closed. It also noted that when opened the door appeared to have fallen on its runners and was loose.
  16. Mr Elliot expressed concern about the condition of the patio door as described to him. He maintained that the door had not been draughty and had been in good condition at the start of the lease. He maintained that the tenant had clearly caused damage to the door.
  17. The Committee further referred to the email of 31 January which also referred to problems with the patio doors. In particular it mentioned a problem of "airflow" to which the tenant had referred which the Committee understood as "draught". The Committee did not detect any visible signs of damage having been caused to the door, apart from the removal of the lock and handle, which appeared to be capable of being replaced.
  18. The Committee was satisfied that the patio door was defective in some way and that it was draughty.
  19. With regard to the shower, the tenant complained that hot water was not delivered to the shower head. She demonstrated this to the Committee during the inspection. The Committee was not qualified to make a determination as to the operation of the shower. The Landlord claimed that he had arranged for a

plumber to attend the property to explain the operation of the shower to the Tenant but that the contractor had been unable to gain access. He pointed to an exchange of emails of 3 February 2014 in which he had sought to ensure that the Tenant would be available at the property between 1pm and 3pm on the afternoon of 4 February to meet the contractor. He stated that this had been due notice in terms of the lease for the contractor to obtain entry. The Tenant maintained that she had requested details of the contractor from the Landlord but had only been provided with the name of the firm. She was not given an address or a telephone number. The Committee did not consider that it would have been unreasonable for such information to have been provided. The Tenant lives alone at the property and is entitled to information about tradesmen who are authorised to call.

## **Findings**

1. The Committee was satisfied that the complaints listed by the Tenant in her application were justified:
  - a. It was satisfied on a balance of probabilities that no key for the patio door had been provided. The email of 31 January referred to the fact that there was no key which was within one week of the Tenant taking entry.
  - b. It was satisfied from its inspection and with reference to the email of 31 January 2014 that the patio door had not been wind tight at that time and that it remained draughty at the time of the inspection. It also found that the patio door was defective in some way and required to be examined by a tradesman to identify and rectify the problem.
  - c. It was satisfied from its inspection that the seals in the double glazing units in the kitchen and in one of the rear bedroom windows (right) were blown and the glazing required to be replaced.
  - d. It was unable to confirm whether the shower was operating in a satisfactory manner and considered that it should be checked by a qualified plumber with proper instruction being given to the Tenant.
2. The Committee determined to issue a Repairing Standards Enforcement Order (RSEO).
3. The Committee observed that so far as possible, Mr Elliot should refrain from visiting the property in person but that he should engage a suitable agent to do so if required. Further he should ensure that details of all persons intending to visit the property on his behalf or to carry out work are provided to the Tenant who should be free to arrange suitable appointments.
4. The Committee also observed that the Tenant should cooperate with the Landlords' agents and tradesmen to enable the necessary works to be carried out in accordance with the RSEO.

## **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.**

## **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 from the day on which the appeal is abandoned or so determined.

Signed.....  
Chairperson

**D Preston**

Date.....*17-10-14*