



## **Repairing Standard Enforcement Order**

**Ordered by the Private Rented Housing Committee**

**Case reference number : PRHP/RP/14/0090**

Re:- Property at 58 Main Street, Fauldhouse, West Lothian, EH7 9BW ("the property")

**Land Register Title No:** WLN4415

### **The Parties:-**

Ms Jacqueline McCallum and Mr Ian McCallum, residing at 58 Main Street, Fauldhouse, West Lothian, EH7 9BW ("**the tenant**")

**and**

Mr Alan Bishop, residing at 28 Wallace Road, Bathgate, West Lothian ("**the landlords**")

### **Notice to Mr Alan Bishop**

Whereas in terms of the decision dated 6<sup>th</sup> October 2014 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 the landlords had failed to ensure that:-

- (a) the house is wind and watertight and in all respects reasonably fit for human habitation
  
- (b) 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 Private Rented Housing Committee now requires the landlords to carry out such work as is necessary for the purpose of ensuring that the house concerned meets the repairing standard and that any damage caused by the carrying out of the works in terms of the order is made good.

In particular the Private Rented Housing Committee requires the landlords to carry out the following work

- To carry out investigations to identify the cause of mould, condensation and dampness to the walls in the bedroom and to carry out all necessary works to eradicate said mould, condensation and dampness and to thereafter redecorate the bedroom
- To obtain and provide to the committee a report from a suitably qualified electrician or electrical engineer confirming that the electrical wiring and installations within the property meets relevant current safety standards or alternatively to carry out all necessary works to bring the electrical wiring and installations within the property to an appropriate standard.

The Private Rented Housing Committee orders that the works specified in this order must be carried out within 28 days of the date of this Order.

A landlord or tenant aggrieved by the decision of the 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 PRHP or the Committee which made the decision.

Where such an appeal is made the effect of the decision or 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 decision and the order are to be treated as having effect from the day on which the appeal is abandoned or so determined.

Signed... **J Bauld** .....  
James Bauld, Chairperson

Date... 17 October 2014

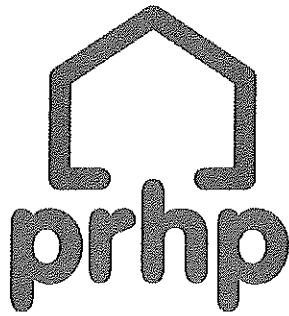
Signature of Witness... **N Walker** .....  
N Walker

Date... 17 October 2014

Name: NATALIE WALKER

Address: 7 West George Street, Glasgow, G2 1BA

Designation: Senior Court Administrator



**Determination by Private Rented Housing Committee**

Statement of Decision of the Private Rented Housing Committee

(Hereinafter referred to as "the Committee")

Under Section 24(1) of the Housing (Scotland) Act 2006

Case Reference Number: PRHP/RP/14/0090

Re:- Property at 58 Main Street, Fauldhouse, West Lothian, EH7 9BW ("**the property**")

**Land Register Title No:** WLN4415

The Parties:-

Mrs Jacqueline McCallum and Mr Ian McCallum, residing at 58 Main Street, Fauldhouse, West Lothian, EH7 9BW ("**the tenants**")

And

Mr Alan Bishop, residing at 28 Wallace Road, Bathgate, West Lothian ("**the landlord**")

**The Committee comprised:-**

Mr James Bauld	- Chairperson
Mr Charles Reid Thomas	- Surveyor member
Mrs Christine Anderson	- Housing member

**Decision:-**

The Committee unanimously decided that the landlord had failed to comply with the duties imposed by Section 14(1) (b) of the Housing (Scotland) Act 2006 ("the 2006 Act"). The Committee accordingly proceeded to make a Repairing Standard Enforcement Order (RSEO) as required by Section 24 (2) of the 2006 Act.

## **Background:-**

1. By application dated 31<sup>st</sup> March 2014, Jacqueline McCallum applied to the Private Rented Housing Panel (PRHP) for a determination that the landlord had failed to comply with the duties imposed by Section 14(1) (b) of the 2006 Act.
2. In the application made by the tenant, she complained that the landlord had failed to comply with the duty to ensure that the house met the repairing standard and she listed a number of specific complaints relating to dampness in the bedroom and bathroom, repairs required to the main fuse box, spotlights in the kitchen not working and flooding to the bathroom. After sundry correspondence between the applicant and the PRHP the application was referred to the president of the PRHP
3. By letter dated 18<sup>th</sup> June 2014 the president of the PRHP intimated a decision to refer the application under Section 22 (1) of the 2006 Act to a Private Rented Housing committee. Intimation of said referral was also made to the landlord.
5. On 26<sup>th</sup> August 2014, formal notification was served upon both the tenant and the landlord that an inspection and hearing would take place on 16<sup>th</sup> September 2014.
6. The committee inspected the property on the afternoon of 16<sup>th</sup> September 2014. The landlord was not present during the inspection but access to the property was allowed by the tenants. The tenants were present during the inspection.
7. Following the inspection of the property, the committee held a hearing at the Howden Park Centre in Livingston. The landlord was neither present nor represented at the hearing. The tenants were both present at the hearing.

## **Summary of Issues:**

8. At the hearing the committee noted that the matters which were still to be determined from the tenants' application related to the following:-
  - Flooding to the bathroom
  - Dampness in the bedroom
  - Dampness in the bathroom
  - Mains fuse box requiring repair
  - Spotlights in the kitchen keeping blowing

## **Findings of Fact:**

9. Having considered all the evidence the committee found the following facts to be established.
10. The property is a ground floor flat in a three storey tenemental block. Internally the property consisted of a hall, living room, two bedrooms, kitchen and bathroom. The property had access to a shared back garden to the rear. The property was located in a residential area close to local shops and reasonably placed for the usual facilities such as transport and education. The tenemental block was approximately fifty years old and appeared to be of traditional block construction. The tenemental block had a pitched and tiled roof. During the course of the inspection, the committee noted evidence of dampness on the wall of one of the bedrooms. The committee took the view that the dampness was evidence of penetrating dampness.
11. During the course of the inspection, the committee inspected the bathroom. The committee could find no ongoing evidence of penetrating dampness within the bathroom.

12. The committee noted that a new gas central heating boiler had been installed in February. The tenants indicated this had been installed through the Government Home Warm Scheme. During the inspection, the committee inspected the fuse box which was located in a cupboard in the hall. The committee noted the tenants' comments that the landlord had indicated that the fuse box was to be replaced and the property would require to be re-wired. During the course of the inspection, the committee noted that there was a single smoke alarm within the hall of the property and a carbon monoxide detector. The committee did not see any evidence that the smoke detector was hard wired nor was there any relevant heat alarm within the kitchen of the property.

### **The Hearing**

13. The landlord did not attend nor was represented at the hearing. The tenants both attended.
14. The committee listened to the tenants' evidence and noted that when they had moved into the property they had been told by the landlord that various works which were required would be done. They had originally dealt with a person called Derek who was apparently the landlord's handyman. After making various complaints they were then in touch directly with the landlord himself.
15. After making the application to the PRHP, the tenants had contact with the landlord and had asked the PRHP to delay the application to allow the landlord to carry out various works. The works were not done. The tenants' position was that the property was affected by dampness and in particular the bedroom was suffering from penetrating damp. In the course of the inspection, the committee carried out an external inspection of the property and noted that to the rear of the property was an external bin store which had a flat roof. The tenant believed that the flat roof and its junction with the building was the point of access for the penetrating dampness.
16. The tenants indicated in their evidence that they had received shocks from the electrical system and that the lights in the kitchen would regularly blow.
17. The committee thanked the tenants for attending the hearing and for providing the evidence.

### **Decision and Reasons for Decision**

18. The Committee considered the various issues which had been raised in the application and the various matters which had been discussed at the hearing. The Committee took the view that the property did not meet the required standard in terms of the 2006 Act.
19. The Committee took the view that the dampness within the bedroom was clear evidence of penetrating dampness. Accordingly the property was not wind and watertight and was not reasonably fit for human habitation.
20. With regard to the complaints regarding the electrical system, the committee were unable to make any determination in the absence of a report from a qualified electrical engineer. The committee determined that such a report should be ordered as part of the Repairing Standard Enforcement Order (RSEO).
21. The committee took the view there was no significant evidence of any existing dampness within the bathroom. Accordingly the committee determined that no order would be made in that regard.
22. The committee accordingly determined to make an RSEO as required in terms of Section 24 (2) of the Act.
23. The Decision of the committee was unanimous.

**Rights of Appeal**

- 24. A landlord or tenant aggrieved by the decision of the Committee may appeal to the Sheriff by summary application within 21 days of being notified of that decision.
- 25. The appropriate respondent in such appeal proceedings is the other Party to the proceedings and not the PRHP of the Committee which made the decision.

**Effects of Section 63**

- 26. Where such an appeal is made, the effect of the decision and of any Order made in consequence of it is suspended until the appeal is abandoned or finally determined.
- 27. Where the appeal is abandoned or finally determined by confirming the decision, the decision and the Order made in consequence of it are to be treated as having effect from the day on which the appeal is abandoned or so determined.

**J Bauld**

Signed.....

Date... 17 October 2014

James Bauld, Chairperson

**N Walker**

Signature of Witness.....

Date... 17 October 2014

Name: NATALIE WALKER

Address: 7 West George Street, Glasgow, G2 1BA

Designation: SENIOR COURT ADMINISTRATOR