



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

**RE: Property at 16 Andrew Barton Street, Arbroath DD11 5HB more particularly described in Land Certificate Title number ANG 36711 (hereinafter referred to as “the House”)**

**The Parties:**

**Jennifer Ritchie, 16 Andrew Barton Street, Arbroath DD11 5HB (hereinafter “the Tenant”)**

**Stobmuir Enterprises Ltd, 15 Albert Street, Dundee DD4 6NS (hereinafter “the Landlord”)**

**PRHP REFERENCE PRHP/RP/14/0121**

**NOTICE TO STOBMUIR ENTERPRISES LTD**

**WHEREAS** in terms of their decision dated 23 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:

*“(f) the house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.”*

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 install fire detection devices in compliance with the terms of the Scottish Government Guidance on Satisfactory Provision for Detecting and Warning of Fires

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 Twenty Fifth day of February Two Thousand and Fifteen in the presence of the undernoted witness:

**John McHugh**

Chairperson

**Gillian McHugh**

Witness

*GILLIAN MCHUGH*

Witness Address

*3 PONTON ST  
EDINBURGH*



**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

**16 Andrew Barton Street, Arbroath DD11 5HB (hereinafter referred to as “the House”)**

**Jennifer Ritchie, 16 Andrew Barton Street, Arbroath DD11 5HB (hereinafter referred to as “the Tenant”)**

**Stobmuir Enterprises Ltd, 15 Albert Street, Dundee DD4 6NS (hereinafter referred to as “the Landlord”)**

**PRHP REFERENCE PRHP/RP/14/0121**

**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 hearing, determined that the Landlord had failed to comply with the duty imposed by section 14(1)(b) of the Act.

**Background**

By application dated 7 May 2014 (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:

*“(a) the house is wind and water tight and in all other respects reasonably fit for human habitation,...*  
*(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...*  
*(f) the house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.”*

The Tenant complained of the following defects in the House: the presence of damp and mould; heaters not working; a broken window frame in the kitchen and an absence of smoke detectors.

By letter of 29 August 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”).

The Committee comprised the following members:

John McHugh, Chairperson  
John Blackwood, Housing Member  
Kingsley Bruce, 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 16 February 2015. The Tenant was present. The Landlord was represented by Mohammed Baccari and Aileen Taylor.

Following the inspection, the Committee held a hearing at the Golf Hotel, Carnoustie. The Tenant did not attend, having confirmed at the inspection that it was not her intention to do so. The Landlord was represented by Mr Baccari and Ms Taylor.

### **Submissions at the Hearing**

The Committee considered the parties’ written representations and the information obtained at the inspection as well as the oral submissions on behalf of the Landlord.

The Landlord's representatives advised that a smoke alarm had recently been fitted by the fire brigade after a fire at the House. The Landlord was unaware of the Scottish Government Guidance on Satisfactory Provision for Detecting and Warning of Fires which requires improved provision of fire detection devices.

The Landlord regards the problems observed in the House not to come from water ingress but to be caused by condensation caused by the Tenant's lifestyle. Mr Baccari advised that he had fitted vents but that the Tenant had blocked them.

The Landlord considers that the Tenant does not take good care of the House. Mr Baccari said that gaining access to the House had been made difficult by the Tenant.

Prior to the hearing, Mr Baccari had provided the office of the PRHP with a document which he advised had been signed by the Tenant. The document purported to indicate a desire by the Tenant to withdraw the Application. At the inspection the Tenant claimed to know nothing of this and indicated that she was insisting upon her Application. Mr Baccari expressed his surprise at this and assured the Committee that the Tenant had signed the document in question.

### **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 block of six flats.

The block is in a poor state of repair.

The Landlord and Tenant entered into a tenancy agreement in respect of the House.

The Landlord is the registered owner of the House.

The Tenant has been in occupation of the House since approximately June 2013 and remains in occupation.

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 solicitor's letter of 28 April 2014.

The inspection on 16 February 2015 revealed:

The kitchen window was a little stiff but opened and closed as designed.

The Tenant advised that the broken electric heaters had been repaired and were now all in working order.

Condensation is present throughout the property.

Mould growth is visible.

Condensation is present on the windows.

A mains powered smoke alarm has recently been installed in the hall. There are no other smoke or heat detectors in the House.

## **Reasons for the Decision**

### *Kitchen window*

The window is a little stiff but opens and closes as designed.

### *Condensation*

There is no evidence of water ingress. The problems observed appear to result purely from condensation caused by the activities of the Tenant.

The House has modern double glazed windows with trickle vents. No mechanical ventilation is present.

It is likely that opening the trickle vents, and more frequent opening of windows to allow increased ventilation together with increased use of heating would be likely to alleviate the problem.

### *Fire Detection*

The only fire detection measure present was a mains powered smoke alarm in the hall. The Landlord is unaware of the current technical guidance which calls for improved provision of fire detection measures. There is no heat detector in the kitchen and no smoke detector in the living room.

## **The Repairing Standard**

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

## **Observations**

The Committee noted the following matters which, although not being included within the Application, it considers should properly be brought to the Landlord's attention.

The block is in very poor condition, with the common entrance door and adjacent window being badly damaged. The Landlord is the owner of all properties in the block bar one.

There is a broken pane of glass in the front door of the House.

The toilet pan is not adequately secured to the floor.

## **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 McHugh**

John M McHugh  
Chairperson

Date: 23 February 2015