

## **Repairing Standard Enforcement Order**

Ordered by the Private Rented Housing Committee

**Re: Property at 21 Craighurn Crescent, Houston, Johnstone, PA6 7NE edged red on the Title Plan; together with a heritable and irredeemable servitude right of way and use over the area hatched blue on the said plan and that only for the parking of one private motor vehicle.**

**Land Register Title number REN12418**

**PRHP Reference: PRHP/RP/14/0281**

### **The Parties:**

MRS MARGARET KIRKTON, 21 Craighurn Crescent, Houston, Johnstone, PA6 7NE ("the tenant")

FIONA MARGARET SIDDALL, Dewlands, Crayshill Road, Crayshill, Billericay, Essex. ("the landlord")

Reference number: PRHP/RP/14/0281

### **Notice to FIONA MARGARET SIDDALL ("the landlord")**

Whereas in terms of its decision of 6th May 2015, 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 and in particular that the landlord has failed to ensure that the house meets the repairing standard in that:

*the house is wind and water tight and in all other respects reasonably fit for human habitation,*

*the structure and exterior of the house (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order,*

*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 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:

- (i) To replace or carry out such works to the external door and the entrance to the storage cupboard at the rear of the property to ensure that it is wind and water tight and that it is in a reasonable state of repair;
- (ii) To have a full inspection and test of all electrical wiring and appliances at the property by a suitably qualified independent electrical engineer, with particular emphasis on the shower unit in the bathroom and the wiring emanating from the storage cupboard in the upper hallway to ensure that all electrical installations at the property are in a reasonable state of repair and in proper working order and for the engineer to report on his findings with regard to their state of repair and

- working order and for the landlord to produce a copy of that report to the committee;
- (iii) For the landlord to instruct an independent suitably qualified Gas Safe registered engineer to carry out an inspection of the boiler and heating system, for him to report on his findings with regard to their state of repair and working order and to produce a copy of that report to the committee. Should it be reported that the boiler and system for heating water are not in a reasonable state of repair and in proper working order following that inspection, then the engineer should carry out any necessary repairs or, as appropriate, replacement any fittings to ensure that the boiler and heating system are in proper working order and meet the repairing standard. If either the boiler or system for heating the property are found not to be in a reasonable state of repair, the landlord should provide receipts or evidence of the works undertaken. The landlord should also produce an up to date gas safety certificate on the installation and supply of gas;
  - (iv) For the landlord to provide satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.

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

### 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.

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 determined.

IN WITNESS WHEREOF these presents typewritten on this are signed by Simone Sweeney, Chairperson of the Private Rented Housing Committee, at Glasgow, on 19<sup>th</sup> day of May, Two Thousand and Fifteen in the presence of the undernoted witness:

S. SWEENEY

Chairperson...

J. HARVEY-BRANNAN

Witness..

Designation... JACQUELINE HARVIE - BRANNAN, PUBLIC LIABILITY CLAIMS HANDLER

Business address. WHEATLEY HOUSE, 25 COCHRANE STREET,  
GLASGOW, G1 1HL



**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

Property at 21 Craighurn Crescent, Houston, PA6 7NE ("the property")

MRS MARGARET KIRKTON, 21 Craighurn Crescent, Houston, PA6 7NE ("the tenant")

FIONA MARGARET SIDDALL, Dewlands, Crayshill Road, Crayshill, Billericay, Essex ("the landlord")

Reference number: PRHP/RP/14/0281

**Decision**

Having made such enquiries as is 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 ("the Act") in relation to the property concerned and taking into account the evidence led from the tenant and the landlord at the hearing and the documentation submitted to the Private Rented Housing Panel ("PRHP") by the parties, the Private Rented Housing Committee ("the committee") determine that the landlord has failed to comply with the duty imposed by Section 14 (1) (b) of the Act.

**Relevant Statutory Provisions**

Section 13: The repairing standard

(1) A house meets the repairing standard if—

- (a) the house is wind and water tight and in all other respects reasonably fit for human habitation,
- (b) the structure and exterior of the house (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order,
- (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, and



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

#### Section 14: Landlord's duty to repair and maintain

(1) The landlord in a tenancy must ensure that the house meets the repairing standard—

(a) at the start of the tenancy, and

(b) at all times during the tenancy.

#### Background

1. By application dated, 2<sup>nd</sup> December 2014, the tenant applied to the PRHP seeking a determination of whether or not the landlord had failed to comply with the duties imposed by Section 14 (1) (b) of the Act.
2. In the application the tenant stated that the landlord had failed to comply with section 13 (1) (c) (d) and (f) of the Act ("the repairing standard").
3. In her application, attached to section 4, the tenant had specified how she considered that the landlord had failed to meet the repairing standard:

*"1. The door of an exterior store cupboard is rotten along with the facings the door is an interior door. When rainwater gets into the door it swells and I can't get it open, also my possessions in there are getting wet.  
2. The gutter which I mentioned also in my letter to landlord was cleaned on 19<sup>th</sup> Nov after 2 years 8ths of me asking repeatedly."*

At section 5 of her application, the tenant set out the nature of the work which she considered to be required at the property:

- "1. Shower needs repairing or better still replacing. (plumber has condemned this)*
- 2. New light in bathroom*
- 3. Downstairs radiator not working as it should also landing radiator the same.*
- 4. Outside storage cupboard door and facings need replacing all of which are rotten."*

4. In support of her application, the tenant had submitted copy letters to the landlord's letting agent, Mrs Lesley Tyler, 6 Merchiston Drive, Brookfield, PA5 8TT (dated, 10<sup>th</sup> November, 14<sup>th</sup> December 2014, 5<sup>th</sup> January and 26<sup>th</sup> January 2015) copy homecare checklist report from



Scottish Gas dated, 31<sup>st</sup> December 2014, copy safety warning/advice notice from Scottish Gas dated, 19<sup>th</sup> January 2015 and copy lease between the parties, dated 1<sup>st</sup> March 2012.

5. By letter of 2nd March 2015, the PRHP referred the application to the committee in terms of Section 23 (1) of the Act. An inspection and hearing were assigned for 24<sup>th</sup> April 2015. By letter of 2<sup>nd</sup> March 2015, parties were given notice of the date and time of the inspection and hearing. The committee attended the property at 10am. Only the tenant was present. The inspection went ahead. Only the tenant (accompanied by a friend) attended the hearing which took place at the Europa building, 450 Argyle Street, Glasgow at 11.30am. The committee comprised the following members:

- (i) Miss Simone Sweeney, Legal member;
- (ii) Mr Alex Carmichael, Surveyor member and;
- (iii) Mr Colin Campbell, Housing member.

6. At the hearing, the committee heard submissions from the tenant and considered the documentation submitted by the parties. At the conclusion of the tenant's submissions, the committee adjourned to consider all the evidence provided and to make its findings.

#### **Submissions at the hearing**

7. The committee chair invited the tenant to confirm which parts of her complaint remained unresolved. The tenant confirmed that the guttering had now been cleaned and that a new light had been fitted in the bathroom. The tenant was satisfied with these repairs. These issues no longer remained part of her complaint to be considered by the committee. All other issues listed at sections 4 and 5 of her application remained unresolved. Therefore the issues to be addressed by the committee were: (i) the shower requiring repair or replacement; (ii) the radiators in the living room and on the upper landing; (iii) whether or not the outside store cupboard door and facings rendered the property neither wind nor water tight (iv) whether or not the property had satisfactory provision for detecting fires and giving warning of fire or suspected fire; The tenant addressed the committee on each complaint:
8. Starting with the shower, the tenant advised that the letting agent's husband, Mr Tyler, had attended the property at the beginning of the week of the hearing. He had installed a new electric shower in the bathroom. The tenant submitted that, as far as she was aware, Mr Tyler was not a qualified electrician. He had fitted the shower to the hot water cylinder positioned in a storage cupboard located on the first floor landing. The tenant submitted that there were loose, exposed wires left inside the cupboard and she had concerns about the safety of the shower. She had not attempted to use or even test whether the shower was operable since it had been fitted, so concerned was she about safety of the electrical shower.





9. With regards to the radiator located in the living room on the ground floor of the property, the tenant submitted that the radiator had only been fitted on 7<sup>th</sup> April 2015. The tenant explained that she had been residing at the property for approximately three years. In that time, three radiators had been fitted at the same location. The problem with each of the radiators had been the same. The tenant described dirty, boiling water escaping from each of the radiators, soaking the carpet and flooring underneath. In the recent example the radiator had burst altogether with water escaping all over the wall. The tenant had required to cut back part of the carpet underneath which had been severely damaged by the water. The tenant advised that, notwithstanding a new radiator having only been installed a matter of weeks previously, water was again beginning to leak from the newly replaced radiator. The tenant was satisfied that a bigger problem with the heating at the property was the real source of the problem. She referred to the same problem now occurring with the radiators located in the bedroom and on the first floor landing. The tenant described that she had had all of the radiators inspected by an engineer from Scottish Gas. Copies of the engineer's reports, dated 31<sup>st</sup> December 2014 and 19<sup>th</sup> January 2015 were within the papers submitted by the tenant. In her submission the tenant stated that all of the radiators would require to be flushed out if the problem was to be addressed.
10. The tenant submitted that she had reason to believe that the heating system at the property was not in proper working order. In relation to the level of heat which the radiators produced, the tenant submitted that the heating was insufficient and that the property was often cold even when the radiators were operating. The radiators never seemed to reach a sufficient heat. There had been a problem with the boiler failing to ignite on a number of occasions. The tenant confirmed that the central heating system at the property is gas. She referred to a flue on the external wall of the property not being sealed adequately to the brickwork. Water leaks into the areas around the flue and through the external wall behind the wall mounted boiler in the kitchen. In her submission, this renders the property neither wind nor water tight. The tenant referred to investigations of the heating system undertaken by Scottish Gas at her request. These investigations had taken place in December 2014 and January 2015. The tenant submitted that the engineer from Scottish Gas had supported her concerns that the heating system was inoperative and, again, emphasised that all the radiators in the property required "power flushing" to remedy the problem. The tenant submitted that the report had been intimated to the landlord's agents.
11. With regards to the outside storage cupboard, the tenant submitted that the rear wall of the cupboard divides it from the kitchen. She explained that she has requested authority from the landlord to extend her kitchen by removing this wall, therefore making the door to the cupboard the back door to the property leading directly into the kitchen. She explained that many properties in the surrounding area have carried out similar work. The tenant explained



that she stores personal belongings within the store cupboard. In her submission the external door was not suitable for its purpose and was more in keeping with the style of door which one might expect to see indoors. The tenant stated that the door facings and frames were badly rotten and had been so for some time. She advised that rain water penetrated the store cupboard and had caused damage to her belongings. The tenant had brought the issue to the attention of the letting agent, in writing, and to the letting agent's husband, Mr Tyler, on his visits to the property. The tenant submitted that the cupboard was part of the fabric of the property. The cupboard's state of disrepair rendered the property neither wind nor water tight.

12. Turning to the issue of fire detection in the property, the tenant submitted that a smoke alarm attached to the ceiling on the upstairs landing was inoperative. The tenant indicated that it required a new battery. This smoke alarm had been there throughout the three year period she had lived at the property. Again, she had brought then matter to the attention of her landlord through Mr Tyler. Moreover she had raised with the letting agents that she believed that she understood that one smoke alarm at the property was insufficient and she felt strongly that a second alarm should be fitted on the lower level of the property. On a recent visit to the property earlier that week Mr Tyler had delivered a new smoke alarm and left this in the kitchen. He gave no indication of when or indeed, if, he intended to return to fit the new alarm. It was the tenant's position that the property was without any device to detect smoke or fire currently.

#### **Summary of the issues**

13. The issues to be determined are;
  - (i) whether the landlord has complied with the duty imposed by sections 13 (1) (a) (c) (d) and (f) of the Act and;
  - (ii) whether the landlord has complied with the duty imposed by Section 14 (1) (b).

#### **Findings in fact**

14. The committee make the following findings in fact:
15. That the tenancy between the parties for the property is dated 1<sup>st</sup> March 2012 being the date on which the tenancy commenced. That Fiona Margaret Siddall is the landlord and the agent for the landlord is Lesley Tyler of 6 Merchiston Drive, Brookfield, PA5 8TT. The lease is a short assured tenancy in terms of the Housing (Scotland) Act 1988. The provisions of Chapter 4 of the Act apply.



16. That the property is owned by Fiona Margaret Siddall and bears the title number REN12418, with date of purchase being 28<sup>th</sup> October 2005.
17. That, by letter of 10<sup>th</sup> November 2014 from the tenant to the letting agent, the landlord was made aware of many of the tenant's complaints narrated at paragraphs 3 and 4, above.
18. That the tenant submitted an application to the PRHP on 2<sup>nd</sup> December 2014.
19. That the tenant specified, at section 4 of the application, that the landlord had failed to comply with sections 13 (1) (c) (d) and (f) of the Act.
20. That, within the text of section 4, the tenant had included as part of her application an alleged failure of section 13 (1) (a) of the Act when she stated that,  
  
*"1. The door of an exterior store cupboard is rotten along with the facings the door is an interior door. When rain water gets into the door it swells and I can't get it open, also my possessions in there are getting wet."*
21. That the tenant wrote to her landlord on 14<sup>th</sup> December 2014 by recorded delivery post. The letter stated the following:  
  
*"I have been informed that smoke alarms must be fitted on each floor also, a heat detector fitted in the kitchen, I only have one smoke alarm on the upstairs landing, along with a carbon monoxide alarm."*
22. That, in terms of section 13 (1) (f) of the Act, the house meets the repairing standard if the house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.
23. That the landlord was placed on notice that the tenant's complaint included concerns of the house not having satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire in her application to the PRHP of 2<sup>nd</sup> December 2014 and thirdly by letter of 14<sup>th</sup> December 2014.
24. That the landlord had carried out some works in an attempt to address the complaints set out in the tenant's application. The works included, clearing the guttering, installing a new electric shower in the bathroom, replacing the light fitting in the bathroom and installing a new radiator in the living room.
25. That the tenant had produced to the PRHP two reports from Scottish Gas dated, 31st December 2014 and 19<sup>th</sup> January 2015.



26. That the report of dated 31<sup>st</sup> December 2014 bearing the title, "Homecare checklist" reveals the findings of an inspection of the boiler at the property by a Scottish Gas engineer. It is noted that the boiler is located in the kitchen and is 11 years old. On page 2, the report reads,

*"Not to Current Standards*

*The appliance or installation is currently operating safely and does NOT constitute either an 'Immediately Dangerous' or 'At Risk' situation....(it does) not present a gas safety hazard at this time. However, in the interests of safety, it is recommended that work is carried out to upgrade the installation...to meet current requirements."*

27. That, the second page of the report lists remedial works required at the property as, "flue terminal pos."

28. That, a copy of the report of 31<sup>st</sup> December 2014 was submitted to the PRHP.

29. That a letter was issued to the tenant by the PRHP dated 23rd January 2015. The letter made reference to the report of 31<sup>st</sup> December 2014. It stated,

*"We assume that you wish the issue of the boiler to be considered by a committee along with the complaints relating to the downstairs radiator and landing radiator. To allow these matters to be subject of a Committee determination, please provide evidence that the landlord has received notification of these issues."*

30. That the tenant intimated to the landlord through her letting agent copies of the reports of Scottish Gas dated 31<sup>st</sup> December 2014 and 19<sup>th</sup> January 2015. A copy of the covering letter is contained within the papers before the committee. It states,

*"have had to call out gas engineer today again as central heating wasn't working. I have enclosed a copy of his report for you."*

31. That the tenant sent a letter to the PRHP dated, 20<sup>th</sup> January 2015 confirming that she had sent copies of both reports from Scottish Gas to the landlord.

32. That an inspection and hearing was arranged to take place on Friday 24<sup>th</sup> April 2015 and this was intimated to both parties in writing by letters of 2<sup>nd</sup> March 2015.

33. That neither the landlord nor the letting agents were present at that inspection.

34. That, on the date of the inspection, the weather was dry.





35. That the property comprises a two apartment, two storey quarter villa, one of four in a block style property built circa 1980 and located in the village of Houston, Renfrewshire. The property is situated in a residential area comprising of similar properties. The property is of a traditional construction with brick cavity outer walls and inner timber frame. It has a pitched roof and pitched with tiles. The accommodation comprises entrance hallway, lounge and kitchen on the ground floor with 1 bedroom and bathroom on the upper floor. Mains supplies of gas, water and electricity are supplied to the property and drainage is assumed to be to the public sewer. The property has gas fired central heating.
36. That, on inspection of the living room, the committee found there to be one radiator fitted to the wall which dividing the living room from the kitchen. The committee found the radiator to be leaking water from a connection at the right hand side of the radiator onto the floor below. The central heating was not in operation at the time. The committee identified that part of the carpet which covered the flooring of the living room had been cut away directly underneath the radiator.
37. That, on inspection of the kitchen, the committee observed a boiler mounted to the wall. The tenant indicated water would emanate from the boiler. It was connected to a flue fixed to the external wall of the property
38. That, on inspection of the kitchen, the committee observed a hard wired smoke alarm positioned on the worktop.
39. That, on inspection of the bathroom, a new electrical shower unit had been installed above the bath. That, when switched on, the shower produced hot water. No tests were undertaken to assess the safety of the shower unit.
40. That a large storage cupboard was located in the hallway. The rear wall of the cupboard divides the hallway from the bathroom. The hot water cylinder is situated within the cupboard. That, on inspection of the inside of the cupboard, electrical cables were identified to be trailing loose on the floor of the cupboard adjacent to the hot water cylinder. No tests were undertaken to assess the safety or compliance of the cables.
41. That, on inspection of the upper level of the property, radiators were identified to be positioned on the wall of the upper hallway immediately below the window opposite the stairway and on the wall of the bedroom, opposite the window. Neither of the radiators were in operation at the time of the inspection. No tests were undertaken to assess whether or not the radiators were working.



42. That on the upper landing of the property, the committee identified a battery operated smoke alarm fixed to the ceiling. The housing and surveyor members tested the smoke alarm. It was found to be not operational.

43. That, during an inspection of the external storage cupboard at the rear of the property, the committee identified that a timber framed door opening into the cupboard. The facings and frames of the door were badly rotten. The cupboard was neither wind nor water tight.

#### **Reasons for decision**

44. That, on inspection of the exterior storage cupboard door at the rear of the property, the committee identified the door facings and frames to be so badly rotten that the property is not wind and water tight and does not meet the repairing standard of section 13 (1) (a) of the Act therefore.

45. That, on inspection of the bathroom and upper hallway of the property, the committee found that the wires and cables leading from the recently installed shower into the internal storage cupboard on the upper hallway were loose indicating that the shower had not been fitted by a suitably qualified electrician; the property does not meet the repairing standard of section 13 (1) (c) of the Act therefore.

46. That, on inspection of the living room of the property, the committee found that the radiator attached to the wall was leaking water and that the installation for space heating is not in a reasonable state of repair; the property does not meet the repairing standard of section 13 (1) (c) of the Act therefore.

47. That no specification was offered by the tenant in her application, during the inspection of the property or in the course of her evidence at the hearing of any of the fixtures, fittings or appliances provided by the landlord under the tenancy to be in anything other than a reasonable state of repair and in proper working order. Accordingly, the committee do not find there to be any failure on the part of the landlord to fail to comply with section 13 (1) (d) of the Act.

48. That, on inspection, the committee observed a battery smoke detector fitted to the ceiling of the hallway of the property. Examination by the housing and surveyor members of the committee identified that the smoke detector was not in proper working order. The house does not have satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire. Therefore the property does not meet the repairing standard of section 13 (1) (f).



## **Decision**

49. The committee determined that the landlord has failed to comply with the duties imposed by sections 13 (1) (a) (c) and (f) and 14 of the Act.

50. The committee proceeded to make a Repairing Standard Enforcement Order as required by Section 24 (1). The Repairing Standard Enforcement Order has a time limit of 4 weeks from the date of service of the Order for the landlord to carry out works and produce such reports as are necessary to ensure that the property meets the repairing standard. In particular the committee required the landlord to:

- i. replace or carry out such works to the external door and the entrance to the storage cupboard at the rear of the property to ensure that it is wind and water tight and that it is in a reasonable state of repair;
- ii. to have all electrical wiring and appliances at the property fully inspected and tested by a suitably qualified independent electrical engineer, with particular emphasis on the shower unit in the bathroom and the wiring emanating from the storage cupboard in the upper hallway to ensure that all electrical installations at the property are in a reasonable state of repair and in proper working order and for the engineer to report on his findings with regard to their state of repair and working order and for the landlord to produce a copy of that report to the committee;
- iii. to instruct an independent suitably qualified Gas Safe registered engineer to carry out an inspection of the boiler and heating system, for him to report on his findings with regard to their state of repair and working order and to produce a copy of that report to the committee. Should it be reported that the boiler and system for heating are not in a reasonable state of repair and in proper working order following that inspection, then the engineer should carry out any necessary repairs or, as appropriate, replace any fittings to ensure that the boiler and heating system are in proper working order and meet the repairing standard. If either the boiler or system for heating the property are found not to be in a reasonable state of repair, the landlord should provide receipts or evidence of the works undertaken. The landlord should also produce an up to date gas safety certificate on the installation and supply of gas.
- iv. to provide satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.

51. The decision of the committee was unanimous.

## **Right of Appeal**



52. 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**

53. 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 determined.

S. SWEENEY

Chair

At Glasgow on 19<sup>th</sup> May 2015

