



## Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

prhp Ref: PRHP/RP/15/0067

Re : Property at 2/1 Craigleith Avenue South, Edinburgh EH4 3LQ

**Sasine Description:** ALL and Whole the flatted dwellinghouse 2/1 Craigleith Avenue South, Edinburgh, in the County of Midlothian, being the westmost flat on the ground floor of the tenement of flats of which it forms part and being the subjects more particularly described in and disposed by Disposition in favour of Nora Melita Grace Mackenzie, recorded in the Division of the General Register of Sasines applicable to the County of Midlothian on 15 June 1977.

**The Parties:-**

**Janetta Stewart Morrison, residing at 9 Crossland Crescent, Peebles EH45 8LF ("the Landlord") and**

**Vincent Gonelli, residing at 2/1 Craigleith Avenue South, Edinburgh EH4 3LQ ("the Tenant")**

### **NOTICE TO JANETTA STEWART MORRISON ("the Landlord")**

Whereas in terms of their decision dated 17 April 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 Property has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire, 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 install in the Property smoke alarms and a heat detector as set out in the Scottish Government's revised statutory guidance on the requirements for smoke alarms in Private Lets and in accordance with the revised Domestic Technical Handbook.

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

In witness whereof these presents typewritten on this page are executed by George Barrie Clark, solicitor, Lasswade, chairperson of the Private Rented Housing Committee at Lasswade, on 17 April 2015, before this witness, Valerie Elizabeth Jane Clark, Droman House, 5 School Brae, Lasswade, Midlothian.

G. CLARK

V. CLARK

\_\_ witness

\_\_ chairman



**Statement of decision of the Private Rented Housing  
Committee under Section 24 (1) of the Housing  
(Scotland) Act 2006**

**prhp Ref: PRHP/RP/15/0067**

**Re : Property at 2/1 Craigleith Avenue South, Edinburgh EH4 3LQ ("the Property")**

**The Parties:-**

**Vincent Gonelli, residing at 2/1 Craigleith Avenue South, Edinburgh EH4 3LQ ("the Tenant")**

**Janetta Stewart Morrison, residing at 9 Crossland Crescent, Peebles EH45 8LF ("the Landlord")**

**Decision**

**The Committee, having made such enquiries as it saw fit for the purposes of determining whether the Landlord has complied with the duty imposed by Section 14 (1)(b) in relation to the house concerned, and taking account of the written representations made by both the Landlord and the Tenant, determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.**

**Background**

1. By application dated 16 February 2015, received on 17 February 2015, the Tenant applied to the Private Rented Housing Panel ("the Panel") for a determination of whether the Landlord had failed to comply with the duties imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 ("the Act").
2. The application by the Tenant stated that the Tenant considered that the Landlord had failed to comply with his duty to ensure that the house meets the repairing standard and in particular that the Landlord had failed to ensure that:-
  - (a) 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, and
  - (b) the house has satisfactory provision for detecting fires and for giving warning in the event of a fire or suspected fire.
3. By letter dated 13 March 2015 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 ("the Committee").
4. The Private Rented Housing Committee served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon both the Landlord and the Tenant.
5. Following service of the Notice of Referral the Tenant made no further written representation to the Committee other than the original application dated 16 February 2015. The Landlord (by e-mail dated 13 March 2015 and by letter dated 17 March 2015), made written representations to the Committee.



6. The Private Rented Housing Committee inspected the Property on the morning of 17 April 2015. The Tenant was present at the inspection. The Landlord was neither present nor represented during the inspection.
7. The Committee comprised George Clark (chairperson) and Charles Reid Thomas (surveyor member).
8. Following the inspection of the Property the Private Rented Housing Committee held a hearing at George House, 126 George Street, Edinburgh. Neither the Tenant nor the Landlord was present or represented at the hearing.
9. The Tenant submitted as follows:- the hot water and central heating boiler in the Property had caught fire on 2 February 2015. The Fire and Rescue Service had been called out, had extinguished the fire and disconnected the boiler. The following day, Scottish Gas had called at the Property to carry out a routine Gas Safety check. They had stated that the boiler was unsafe and had provided an estimate for a replacement boiler. The Tenant had reported the incident to the Landlord, who had asked him to obtain further quotes. These quotes were sent directly to the Landlord, but the Landlord had not instructed the work to be carried out, as she was waiting for her insurers to accept liability for the cost of the replacement boiler. As a result, the Tenant and his wife, both of whom were elderly and suffering from serious illnesses and debilitating conditions, had no hot water or heating in some of the coldest weather of the winter. As at the date of the application, the Tenant had not been given any indication as to when the hot water and central heating supply would be reinstated. The Tenant also stated that the Fire and Rescue Service had pointed out that there were no smoke detectors in the Property and had supplied two battery-operated smoke detectors during their visit to extinguish the fire.
10. The Landlord submitted as follows:- she had been notified of the incident on 2 February 2015. On the following day, she had intimated to Direct Line an insurance claim. She had received the Scottish Gas quotation on 4 February and had passed it to the insurance assessor on 6 February. Direct Line had asked for a report from Scottish Gas and Scottish Gas had asked for a report from the fire brigade, both of which the Landlord had requested on 9 February. The Scottish Gas report was received and forwarded to Direct Line on 14 February, but the report from the Fire and Rescue Service was not received by the Landlord until 6 March. It was forwarded by her to Direct Line on 6 March and they accepted the claim on 11 March. On the same day, she had accepted the quote from Scottish Gas and on the following day she had paid the deposit and passed on the Tenant's contact details to enable arrangements to be made directly to install the new boiler. She had kept the Tenant informed throughout this time. In her letter of 17 March 2015, the Landlord stated that, by the time it was received by the Panel, Scottish Gas would have installed a new boiler. She also stated that the situation regarding the absence of smoke alarms had been corrected.

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

11. The issues to be determined were whether the Property met the repairing standard as laid down in Section 13 of the Act and whether the Landlord had complied with the duties imposed on landlords by Section 14(1)(b) of the Act.

#### **Findings of fact**

12. The Committee finds the following facts to be established:-
  - The tenancy is an assured tenancy, which commenced on 30 June 2007.
  - The Property comprises a ground floor flat in a modern custom-built block of flats.
  - A new Worcester combi-boiler was installed by Scottish Gas on 18 March 2015.
  - There are two battery-operated smoke detectors in the Property, one in each of the two hallways. There is a carbon monoxide detector in the kitchen. There are no hard wired smoke detectors in the Property, nor is there a heat alarm in the kitchen.

### Reasons for the decision

13. The Committee did not have to express a view on the length of time it had taken (from 2 February 2015 until 18 March) for the new central heating boiler to be installed and on the fact that the Tenant and his wife were without central heating and hot water for more than six weeks. The Committee noted that the new boiler had been installed by Scottish Gas and the Tenant advised at the inspection that it appeared to be operating properly. The Landlord had not, however, as at the date of the inspection, installed smoke detectors and a heat detector as set out in the Scottish Government's statutory guidance or in accordance with the revised Domestic Technical Handbook, which states that there should be one functioning smoke alarm in the room which is frequently used for general daytime living purposes, one functioning smoke alarm in every circulation space, such as hallways and landings, and one heat alarm in every kitchen and that all alarms should be interlinked. At the inspection, the Tenant advised the Committee that arrangements had been made to have smoke detectors fitted on Wednesday 21 April, but the Committee determined that, as at the date of the inspection, the Property did not meet the repairing standard.

### Decision

14. The Committee accordingly determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.
15. The Committee proceeded to make a Repairing Standard Enforcement Order as required by section 24(1).
16. The decision of the Committee was unanimous.

### Right of Appeal

17. **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

18. 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.

G. CLARK

Signed ...  
Chairperson    ✓

..... Date..... 17 April 2015 .....