



## **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**

**Re : 3/3, 223 Cumbernauld Road, Glasgow, G31 2UK ('the Property')**

**The Parties:-**

**Jonathan Craig, 3/3, 223 Cumbernauld Road, Glasgow, G31 2UK ('the Tenant')**

**Sarah Christie care of 1<sup>st</sup> Class Lets, 501, Duke Street, Glasgow, G31 1DL ('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 evidence led by the Landlord's agent at the hearing, 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 26<sup>th</sup> October 2010 the Tenant applied to the Private Rented Housing 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 he considered that the Landlord had failed to comply with his duty to ensure that the house meets the Repairing Standard. In particular the application stated that the windows of the property are rotten on the outside, one of which fell apart on him during cleaning.
3. The President of the Private Rented Housing Panel, having considered the application, referred the application under Section 22 (1) of the Act to a Private Rented Housing 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. No written representations were provided by the parties following service of the Notice of referral.
6. The Committee attended at the Property on 27th January 2011. The Tenant, and for a short time the Landlord's agent, were present. The Committee inspected the alleged defects and found as follows:-
  - (a) The window handles in the bedroom and lounge were loose and do not properly tighten to seal the window in position when it is closed.
  - (b) There are cracks in the window frame of the bedroom window. The tenant advised that water penetrates through these cracks.
  - (c) There was no seal between the external framework of the window in the bedroom and the stone external wall.

- (d) The secondary glazing units in the lounge were loose in places.
- (e) A number of the window frames in the lounge were rotten and the seal between the external framework of the window and the stone external wall was defective in places.
- (f) The window frame of the bathroom window was rotten in part and the seal between the external framework of the window and the stone external wall was defective.

The tenant pointed out that the shower casing was loose and that holes had been drilled in the wooden board forming part of the ceiling in the storeroom and a trough had been placed below to catch the water.

The committee were unable to make determinations on these matters as they were not included in the original application.

Before the landlord's agent left they confirmed that they would not attend the hearing.

7. Following the inspection the landlord's agent telephoned the PRHP offices and advised that they would now be attending the hearing. The Clerk of the PRHP telephoned the Tenant and advised him of the position. He explained that he did not intend to attend the hearing. The Private Rented Housing Committee held a hearing at the PRHP offices in Glasgow.

Lynn Auld of 1<sup>st</sup> Class Letting, the Landlord's agent, attended the hearing and advised as follows:-

- 1<sup>st</sup> Class Letting took over the agency of the property three or four weeks before the Tenant moved in.
- As the weather deteriorated the Tenant intimated an increasing number of defects to the property.
- Her tradesmen had sealed the windows and as far as she was concerned the windows had been repaired.
- She suggested that the age of the property should be taken into account when considering the condition of the windows and she suggested that the loose window handles were not a defect.
- As far as she was aware the only outstanding repair concerned the water ingress in the cupboard. She acknowledged that this problem was not related to the windows and was a result of the defective communal guttering, and this did not form part of the tenant's application.

### **Summary of the issues**

8. The issue to be determined is whether the condition of the windows results in the property not meeting the repairing Standard as defined in the Housing (Scotland) Act 2006. The Committee were mindful of the case *Hastie V City of Edinburgh District Council* 1981 SLT (Sh Ct) 61, which found that the windows form part of the exterior of the property. Therefore the Committee have to determine whether the windows, which form part of the exterior of the property, are in a reasonable state of repair and in proper working order (Section 13(1)(b) of The Housing (Scotland) Act 2006).

### **Findings of fact**

9. The Committee finds the defective seals to a number of the windows in the property, the rotten window parts and the loose and defective window handles are not in a reasonable state of repair and proper working order, having taken account of the age and character of the property.

### **Decision**

10. The Committee accordingly determined that the Landlord had failed to comply with the duties imposed by Sections 14 (1)(a) and 14(1)(b) of the Act due to the condition of the windows, as stated.
11. The Committee proceeded to make a Repairing Standard Enforcement Order as required by section 24(1).
12. The decision of the Committee was unanimous.

### **Right of Appeal**

13. 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**

14. 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 ..... **J Taylor** ..... Date 1<sup>st</sup> February 2011  
Chairperson 



## Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

### NOTICE TO

**Sarah Christie care of 1<sup>st</sup> Class Lets, 501, Duke Street, Glasgow, G31 1DL**

Whereas in terms of their decision dated 1<sup>st</sup> February 2011, 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:-

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 (Section 13(1)(b) of The Housing (Scotland) Act 2006).

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:-

- (1) To the extent that some of the windows are not sealed, seal those windows around their external perimeter, to render them in a reasonable state of repair and proper working order.
- (2) Repair and seal the rotten window parts, to render them in a reasonable state of repair and proper working order.
- (3) Repair or replace loose and defective window handles to render them in proper working order.

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

Signed..... **J Taylor** ..... Date 1<sup>st</sup> February 2011  
Chairperson

..... S James

..... Witness: Sara James, 140, West Campbell Street, Glasgow, G2 4TZ