



## Repairing Standard Enforcement Order

### Ordered by the Private Rented Housing Committee

**prhp Ref:** PRHP/RP/16/0107

**Re:** Property at 13 G/L Court Street, Dundee, DD3 7QS

**Title No:** ANG25508

**The Parties:-**

**MISS JACQUELINE BAXTER, residing at, 13 G/L Court Street, Dundee, DD3 7QS (“the Tenant”)**

**MR MICHAEL JOHNSTON and THERESA JOHNSTON, 45 Mains Loan, Dundee, DD4 7AF (“the Landlords”)**

**NOTICE TO MR MICHAEL JOHNSTON and THERESA JOHNSTON (“the Landlords”)**

Whereas in terms of their decision dated 29 September 2016, the Private Rented Housing Committee determined that the Landlords have failed to comply with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 and in particular that the Landlords have failed to ensure that:-

1. 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;
2. Any fixtures, fitting and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order; and
3. The house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire; and
4. The house has satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health.

the Private Rented Housing Committee now requires the Landlords 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 Landlords:-

- (a) To move and/or protect the fan and electrical spur therefor located above the shower in the bathroom, to ensure that they are in a reasonable state of repair, in proper working order and safe to use.
- (b) To install an isolation switch for the electrical shower.
- (c) To install a carbon monoxide detector in the kitchen to comply with the requirements of the relevant legislation; and
- (d) To produce a clear Electrical Installation Condition Report from a suitably qualified electrician confirming that the electrical systems and portable appliances supplied by the Landlords within the Property are in proper working order and comply with the relevant regulations with no items marked as category 1 or category 2. The Landlords are to exhibit such clear Electrical Installation Condition Report to the Committee.

The Private Rented Housing Committee order that the works specified in this Order must be carried out and completed within the period of 28 days 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 and the preceding page are executed by Gillian Coutts Buchanan, Solicitor, Whitehall House, 33 Yeaman Shore, Dundee, DD1 4BJ, Chairperson of the Private Rented Housing Committee at Dundee on 29 September 2016 before this witness:-

**J Lynch** — witness **G Buchanan** Chairperson

Jenni Lynch  
Secretary  
Thorntons Law LLP  
Whitehall House  
33 Yeaman Shore  
Dundee DD1 4BJ



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

prhp Ref: PRHP/RP/16/0107

Re : Property at 13 G/L Court Street, Dundee, DD3 7QS  
Land Register Title No. ANG25508 ("the Property")

### The Parties:-

MISS JACQUELINE BAXTER, residing at, 13 G/L Court Street, Dundee, DD3 7QS ("the Tenant")

MR MICHAEL JOHNSTON and THERESA JOHNSTON, 45 Mains Loan, Dundee, DD4 7AF ("the Landlords")

### Decision

The Committee, having made such enquiries as it saw fit for the purposes of determining whether the Landlords had complied with the duty imposed by Section 14(1)(b) in relation to the house concerned, determined that the Landlords had failed to comply with the duty imposed by Section 14(1)(b) of the Act. The Committee therefore issues a Repairing Standard Enforcement Order.

### Background

1. By application dated 18<sup>th</sup> March 2016 and received on 21<sup>st</sup> March 2016 the Tenant applied to the Private Rented Housing Panel for a determination of whether the Landlords 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 Landlords had failed to comply with their duty to ensure that the house meets the Repairing Standard and in particular that the Landlords had failed to ensure that:-
  1. 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.
  2. Any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order.
  3. The house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.
  4. The house has satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health.
3. By letter dated 2<sup>nd</sup> August 2016 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.
4. The Private Rented Housing Committee served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon the Landlords and the Tenant.

5. The Committee issued a Notice of Direction to the Landlords dated 6<sup>th</sup> September 2016 which required the Landlords to provide by 5pm on Tuesday 20<sup>th</sup> September 2016:-

The most recent Electrical Installation Condition Report prepared by a suitably qualified electrician to confirm the current condition of electrical systems in the Property.

6. The Private Rented Housing Committee (comprising Miss G Buchanan, Chairperson and Legal Member, and Mr H Maclean, Surveyor Member) inspected the Property on 22<sup>nd</sup> September 2016. Photographs were taken and are attached. The Tenant was not present nor was she represented. The Tenant had vacated the Property which was empty. The Landlords were not present and were not represented. Access to the Property was given by the Landlords' solicitor, Mr R Robertson of Robertson Smith, Dundee.
7. At the time of the inspection it was fair and dry.
8. The Tenant having vacated the Property and being neither present nor represented at the inspection, and Mr Robertson having advised the Private Rented Housing Committee that the Landlords were abroad on holiday, would not be attending the hearing and would not be represented, the Committee proceeded to make a decision under and in terms of Regulation 16 of the Private Rented Housing Panel (Tenant and Third Party Applications)(Scotland) Regulations 2015.
9. In terms of her application, the Tenant submitted as follows:-
  - (a) That the bathroom light is not 1P rated and that the Landlords should install a 2P rated light, this being a category 3 electrical fault.
  - (b) That the fan and spur above the bath should be moved and/or protected by RCBO, this being a category 2 electrical fault.
  - (c) That there is no mains gas or mains water bonding, this being a category 2 electrical fault.
  - (d) That there is no RCD on any circuits, this being a category 2 electrical fault.
  - (e) That there is no heat alarm in the kitchen.
  - (f) That there is no smoke alarm in the lounge.
  - (g) That the DB is not up to 17AMD standards, this being a category 2 electrical fault.
  - (h) That there is no local isolation switch for the shower, this being a category 2 electrical fault.
  - (i) That the pendant lights in the hall and kitchen have visible live parts, this being a category 2 electrical fault.
  - (j) That the lights in the lounge and bedroom both blew when the switches were turned on and the black fuse melted and required to be changed.
10. The Landlords made no representations.

### **Summary of the issues**

11. The issues to be determined are:
  - (a) Whether the bathroom light is in a reasonable state of repair and in proper working order.

- (b) Whether the fan and spur above the bath are in a reasonable state of repair and in proper working order and are safe to use.
- (c) Whether the mains gas and mains water pipes are adequately bonded and in a reasonable state of repair and in proper working order and safe to use.
- (d) Whether the electrical circuits are in a reasonable state of repair and in proper working order and safe to use.
- (e) Whether the Property has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.
- (f) Whether the Property has satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health.
- (g) Whether the DB is in a reasonable state of repair and in proper working order.
- (h) Whether the arrangements for the use of the electric shower in the bathroom are in a reasonable state of repair and in proper working order and safe to use.
- (i) Whether the light fittings in the hall, kitchen, lounge and bedroom are in a reasonable state of repair and in proper working order.
- (j) Whether the fuse board is in a reasonable state of repair and in proper working order.

#### **Findings of fact**

12. The Committee finds the following facts to be established:-

- (a) That the bathroom light is new and is therefore in a reasonable state of repair.
- (b) That fan and electrical spur therefore are located directly above the shower head over the bath, are not protected and are not safe to use.
- (c) That there is no isolation switch for the electric shower.
- (d) That beneath the boiler in the kitchen the mains gas and main water supply pipes have new bonding installed and are safe.
- (e) That in the hall a new fusebox has been installed above the entrance door.
- (f) That in the kitchen a new heat/smoke detector has been installed.
- (g) That there is no carbon monoxide detector.
- (h) That in each of the hall and lounge a new smoke detector has been installed.
- (i) That in the hall and the kitchen the flex for each of the pendant light fittings has been replaced and that no live parts are visible.
- (j) That the light fitting in the lounge is in a reasonable state of repair.
- (k) That the light fitting in the bedroom is in a reasonable state of repair.
- (l) The electricity supply to the Property was not working at the time of the inspection.

### **Reasons for the decision**

13. The Property is a Ground Floor flat accessed by a common close from Court Street. The Property comprises a lounge, bedroom, bathroom and kitchen.
- (a) On inspection the Property was found to be empty and entirely devoid of furniture and furnishings. Mr Robertson of Robertson Smith, Solicitors, Dundee who provided access on behalf of the Landlords stated that the Landlords were about to place the Property on the market for sale and in that connection Mr Robertson had arranged a Home Report and was in the course of preparing a Schedule of Particulars.
  - (b) In the bathroom, a new ceiling light had been installed. However, the Committee could not see the light operating due to the absence of any electricity. The Committee noted the fan and spur above the shower head over the bath which were not protected and are in a hazardous location. The Committee determined that, in these circumstances, the fan and spur required to be moved and/or protected. The Committee also noted there to be no isolation switch for the electric shower and such a switch requires to be installed.
  - (c) In the kitchen, the Committee observed new bonding having been installed on the mains gas and mains water supply pipes. The Committee also observed a new heat/smoke detector and, on being tested, the detector operated correctly. There is no carbon monoxide detector.
  - (d) In both the hall and the lounge, the Committee also noted the installation of new smoke detectors.
  - (e) In the hall, the Committee observed a new fuse board having been installed above the entrance doorway.
  - (f) In each of the hall and kitchen the flex serving the pendant light fittings appeared to have been replaced and was in a reasonable state of repair. However, due to the absence of light bulbs and any electrical supply the Committee was unable to see the lights operating.
  - (g) In each of the lounge and bedroom, the pendant light fittings appeared to be in reasonable state of repair. However, the Committee was unable to see the light fittings operating due to the absence of a live electrical supply.
  - (h) In the absence of any current Electrical Installation Condition Report, the Committee could not assess whether electrical systems within the Property are generally in a reasonable state of repair and in proper working order.
  - (i) The Committee considered how long was required for the works identified to be carried out and determined that 28 days would be sufficient.

### **Decision**

14. The Committee accordingly determined that the Landlords 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 Committee proceeded to serve notice upon Dundee City Council as required by section 24(6).
17. The decision of the Committee was unanimous.

**Right of Appeal**

18. 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**

19. 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 .. **G Buchanan** ..... Date..... 29 September 2016 .....

Chairperson



Front elevation

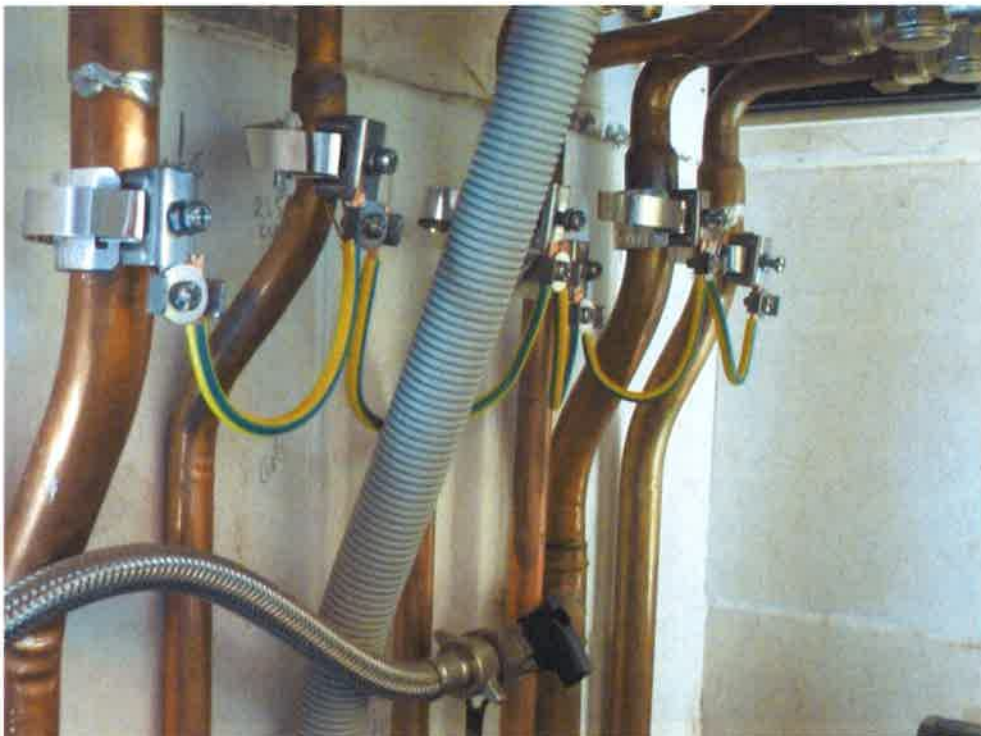


New distribution board





Lounge smoke detector



Cross bonding below gas boiler



Bathroom – electric shower