



**Repairing Standard Enforcement Order
Ordered by the Private Rented Housing Committee**

Ref prhp/rp/16/0150

In respect of an application received 14 April 2016 and lodged in terms of Section 22(1) of the Housing (Scotland) Act 2006 ("the Act") by Mr John McNicol and Miss Aimee McGowan ("the Tenants"), residing at Flat 0/2, 555, Crookston Road, Glasgow G53 7AA, the Tenants of the Property aftermentioned, against the owner of the Property, Mr John-Harry Jackson, residing at 42 Kirkfield Gardens, Renfrew PA4 8JE ("the Landlord") per his agents, AbiConn Limited trading as Probroom Properties, 79 St Georges Road, Glasgow, G3 6JA. ("the Landlord's Agent")

Re: Flat 0/2, 555, Crookston Road, Glasgow G53 7AA registered in the Land Register of Scotland under title number GLA98233

Committee Members

Karen Moore (Chairperson)

Andrew Taylor (Surveyor Member)

NOTICE TO THE LANDLORD

Mr John-Harry Jackson, residing at 42 Kirkfield Gardens, Renfrew PA4 8JE ("the Landlord") per his agents, AbiConn Limited trading as Probroom Properties, 79 St Georges Road, Glasgow, G3 6JA. hereas in terms of their decision dated 4 July 2016, the Private Rented Housing Committee determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 and the Committee now require the Landlord to carry out the following works as are necessary for the purposes of ensuring that the Property meets the Repairing Standard and that any damage caused by carrying out of the works in terms of the Order is made good:-

The Landlord must on or before 12 August 2016:-

1. Instruct a specialist survey in respect of damp noted in the concrete floor slab within within the hall cupboards and produce a written report on the cause and work required to eradicate that damp and to instruct and carry out those recommended works.
2. Carry out such works as are necessary to insulate and sheet the internal walls of the hall cupboards and provide and install vents in the cupboard doors.
3. Replace the waterproof liner to the planter detail externally adjacent the close front entrance.
4. Carry out all ancillary works and decoration associated with the above works

A Landlord or a Tenant aggrieved by the decision of the Private Rented Housing Committee may appeal to the Sheriff by summary application within twenty one 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 printed on this and the preceding page are subscribed by Karen Moore, Chairperson, at Glasgow on 5 July 2016 before this witness, Norman William Moore, solicitor, Cumbernauld.

Norman Moore

Witness

Karen Moore



Determination by Private Rented Housing Committee
Statement of Decision of the Private Rented Housing Committee issued under
Section 24(1) of the Housing (Scotland) Act 2006

Ref prhp/rp/16/0150

In respect of an application received 14 April 2016 and lodged in terms of Section 22(1) of the Housing (Scotland) Act 2006 ('the Act') by Mr John McNicol and Miss Aimee McGowan ('the Tenants'), residing at Flat 0/2, 555, Crookston Road, Glasgow G53 7AA, the Tenants of the Property aftermentioned, against the owner of the Property, Mr John-Harry Jackson, residing at 42, Kirkfield Gardens, Renfrew, PA4 8JE ('the Landlord') per his agents, AbiConn Limited trading as Probroom Properties, 79 St Georges Road, Glasgow, G3 6JA. ('the Landlord's Agent')

Re: Flat 0/2, 555, Crookston Road, Glasgow G53 7AA ("the Property")

Committee Members

Karen Moore (Chairperson)

Andrew Taylor (Surveyor Member)

Background

1. By application received 14 April 2016, ('the Application'), the Tenants applied to the Private Rented Housing Panel for a determination that the Landlord had failed to comply with the duty imposed on him by Section 14 (1) (b) of the Housing (Scotland) Act 2006 in respect that the Property does not meet the Repairing Standard in respect of Sections 13 (1) (a) of the Act.

2. The President of the Private Rented Housing Panel, having considered the Application and having determined to continue the Application in terms of Schedule 2, Paragraph 7 (2) of the Act, intimated to the Landlord by Notice of Referral dated 18 May 2016, a decision under Section 23 (1) of the Act to refer the Application to a Private Rented Housing Committee, and, in terms of Schedule 2, Paragraph 1 of the Act fixed an Inspection and Hearing for 29 June 2016 at 11.00 a.m. and 2.00 p.m., respectively.

Written Representations

3. The Landlord's Agent on behalf of the Landlord submitted three survey reports on the Property, namely:-

- i) Report by Wise Property Care;
- ii) Report by Your Place, property factors and
- iii) Report by Richardson and Starling,

All of which were copied to the Tenants.

Inspection and Hearing.

4. The Inspection took place on 29 June 2016 at 11.00 a.m. at the Property. The Tenants were present at the Inspection. Neither the Landlord nor the Landlord's Agent was present or represented at the Inspection.

5. The Committee inspected all of the matters complained of by the Tenant in the application namely:-

the dampness in the bedroom, living room and the hall cupboards.

6. The Committee took digital photographs at the Inspection which photographs form the Schedule annexed and executed as relative hereto.

7. Following the Inspection, a Hearing was held at Wellington House, Wellington Street, Glasgow on 29 June 2016 at 2.00 p.m. The Tenants and Mr David Brooker of the Landlord's Agent were present at the Hearing

8. At the Hearing, all of the persons present made statements to the Committee.

9. The Tenants explained to the Committee that there had been continuous difficulties with dampness in the Property since the beginning of their tenancy. The Tenants fairly advised the Committee that the Landlord had carried out works such as installing a positive pressure ventilation system, repairing window locks and re-plastering in attempt to address this problem. The Tenants advised the Committee that they had taken heed of advice given to them in respect of life style condensation and ensured that the Property was ventilated, to no avail. The Tenants explained that they had two small children, one of whom suffered from asthma, and the other of whom had suffered respiratory problems and so the Tenants required to balance warmth and ventilation with the health of the children in mind.

10. The Landlord's Agent fairly agreed with the Tenants' position and advised the Committee that the Landlord had been attempting to resolve the matters raised by the Tenants. The Landlord's Agent confirmed to the Committee that the Landlord had instructed further works namely the insulation and sheeting of the hall cupboards, as recommended by Your-Place, to be carried out.

11. Both parties agreed that previously there had been a serious flooding issue from an upstairs flat which had taken some time to dry out and agreed that there appeared to be no evidence of rising or penetrating dampness. Both parties also agreed that as the block of which the Property forms part is wholly in private ownership, the block had not had and would not have the benefit of re-cladding works being carried out by Glasgow Housing Association to the adjacent blocks of flats.

Summary of the Issues

12. The issues to be determined by the Committee are whether or not the Property meets the Repairing Standard in respect of Sections 13 (1) (a) of the Act at the date of the Inspection and Hearing. In particular, whether Property is wind and watertight and otherwise reasonably fit human habitation.

Findings of Fact

13. John-Harry Jackson is the owner of the Property and Mr John McNicol and Miss Aimee McGowan are the Tenants by virtue of a Short Assured Tenancy Agreement between the parties dated 19 December 2013.

14. The Property is a ground floor flat in a block of six flats and comprises one public room, two bedrooms, a kitchen and bathroom. There is a shared rear garden and drying area. The Property appears to be of traditional construction with cavity walls finished in roughcast externally and having a flat roof estimated to be in the region of around 50 years old or thereby.

15. From the Inspection, the Committee found the following:

- i) There is evidence of condensation mould in the three hall cupboards, although there is no significant reading of dampness in the walls of these cupboards;
- ii) There is staining on the window sills which show that there has previously been condensation;
- iii) The plaster and paint work in one the bedrooms appear to have been renewed recently and there is slight mould on the ceiling;
- iv) There is evidence of dampness in the floor slab in the hall cupboards when tested with a moisture meter and

v) The waterproof lining of the planter adjacent to the front external wall appears to be defective.

16. From statements made to them the Hearing, the Committee accepted that the Landlord had attempted to resolve the Tenants' complaints and that the Tenants had attempted to minimize lifestyle condensation as far as possible in light of their family circumstances.

17. Although not complained of in the Application, the Committee found that, at the date of the Hearing, the Landlord has failed to comply with the duty imposed by Section 14 (1) (b) of the Act in respect of Section 13 (1) (f) of the Act, the reason being that there are no hard wired smoke alarms, heat detectors or carbon monoxide alarms in the Property and so the Property does not have satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire as specified in the revised Domestic Technical Handbook guidance on the requirements for smoke alarms and the Property does not comply with Scottish Government Statutory Guidance for the Provision of Carbon Monoxide Alarms in Private Rented Housing. As this matter had not been complained of by the Tenants and as the Landlord had had no prior notice, the Committee is unable to make a Finding or an Order in this regard.

Decision of the Committee

18. The Committee's decision is based on the Application with supporting documents, the written representations, the Inspection and on the statements made to the Committee at the Hearing.

19. In respect of Section 13 (1) (a), of the Act, the Committee found that at the date of the Hearing the Landlord has failed to comply with the duty imposed by Section 14 (1) (b) of the Act, the reason being that the water ingress and the condensation in the hall cupboards are such that the Property is not wind and watertight and otherwise reasonably fit human habitation.

20. The decision is unanimous.

21. The Committee, having determined that the Landlords had failed to comply with the duties imposed by Section 14(1) (b) of the Act proceeded to make a Repairing Standard Enforcement Order as required by Section 24(2) of The Act.

Right of Appeal

22. 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.

23. Where such an appeal is made, the effect of the decision and of any repairing standards enforcement 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 any repairing standards enforcement order will be treated as having effect from the day on which the appeal is abandoned or so determined.

Signed

Karen Moore

Karen Moore, Chairperson

Date

5 July 2016

5/7/16

This is the source of photographs referred to in
the foregoing decision p/16/16/10150

Karen Moore

Solicitor and Notary Public,
Glasgow





5. Common Close



6. Hall cupboard showing mould growth



7. Mould at bedroom skirting



8. Mould/staining window cill



9. Mould to living room blind



10. Recently fitted ventilation unit



11. Hall smoke alarm



12. Planter at close front entrance



13. Back court drying facility