



## Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

**PRHP Ref: PRHP/RP/16/0154**

**Re: Property at 16 Clyde House, The Furlongs, Hamilton ML3 0BA ("the Property")**

**Title No: LAN 17171**

**The Parties:-**

**Iftikhar Ahmed, 37 Royal Gardens, Glasgow G71 8SY; Iftikhar Ahmed c/o Igloo Estate Agents, 2 Gateside Street Hamilton ML3 7JG ("the Landlord")**

**Christopher Travers 16 Clyde House, The Furlongs, Hamilton ML3 0BA; Christopher Travers c/o 11 Mill Road, Torrance ("the Tenant")**

### **NOTICE TO Mr Iftikhar Ahmed ("the Landlord")**

Whereas in terms of their decision dated 16 July 2016 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 ("The Act") and in particular that the landlord has failed to ensure that the property is:-

- (a) wind and watertight 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 proper working order;
- (c) any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order;
- (d) the house 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 property 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:-

1. To instruct a suitably qualified window contractor to repair the windows in the living room, kitchen and bedroom so that they are in a reasonable state of repair and proper working order, or to replace the windows.
2. To clean the walls in the kitchen and bedroom with fungicidal cleaner and re-paint the walls.
3. To replace the handset for the door entry system and carry out such repairs as are necessary to ensure that the system is in proper working order.

4. To install mains wired interlinked smoke detectors in the living room and hall and a heat detector in the kitchen.

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.

**Please note that in terms of section 28(1) of the Act, a landlord who, without reasonable excuse, fails to comply with a RSEO commits an offence liable on summary conviction to a fine not exceeding level 3 on the standard scale. A landlord (and that includes any landlord's successor in title) also commits an offence if he or she enters into a tenancy or occupancy arrangement in relation to a house at any time during which a RSEO has effect in relation to the house. This is in terms of Section 28(5) of the Act.**

In witness whereof these presents type written on this and the preceding page are executed by Josephine Bonnar, solicitor, Chairperson of the Private Rented Housing Committee at Motherwell on 16 July 2016 before this witness:-

J Bonnar Chairperson

G Bonnar Witness

Gerard Bonnar \_\_\_\_\_ Name in full

Buchanan House \_\_\_\_\_ Address

58 Port Dundas Road \_\_\_\_\_

Glasgow \_\_\_\_\_

Solicitor \_\_\_\_\_ Occupation



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

**PRHP Ref: RP/16/0154**

**Re: Property at 16 Clyde House, The Furlongs, Hamilton, ML3 0BA (“the Property”)**

**Title No: LAN 17171**

**The Parties:-**

**Christopher Travers (“the Tenant”)**

**Iftikhar Ahmed, 37 Royal Gardens, Bothwell; Iftikhar Ahmed, c/o Igloo Estate Agents, 2 Gateside Street, Hamilton, ML3 7JG (“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) of the Housing (Scotland) Act 2006 (“the Act”) in relation to the property, and taking account of the evidence led by both the Tenant and the Letting agent on behalf of the Landlord, determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.**

**The Committee comprised:-**

**Mrs Josephine Bonnar, Chairperson**

**Mr Mike Links, Surveyor Member**

**Background**

1. By application received on 19 April 2016 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 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:- 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; any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order; and the house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire. Specifically the Tenant complained of dampness and mould in the property, defective windows, rotting frames and a broken pane of glass in the living room, a broken door entry handset, damaged front door frame, broken lights and a lack of smoke detectors in the property.

3. The Private Rented Housing Panel served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon both the Landlord and the Tenant on 19 May 2016.
4. Following service of the Notice of Referral the Letting Agent made written representations to the Committee on behalf of the Landlord. These indicated that most of the works had been completed and that the windows should be repaired by 27 June 2016. No response nor written representations were received from the Tenant.
5. The Private Rented Housing Committee inspected the Property on the morning of 30 June 2016. The Tenant and the letting agent, Suzanne Mitchell were present during the inspection.
6. Following the inspection of the property the Private Rented Housing Committee held a hearing at Brandon Gate, Leechlee Road, Hamilton. The Tenant and the Letting Agent, Suzanne Mitchell Letting were both present and gave evidence.

### **The Inspection**

7. At the time of the inspection the weather was damp and showery. The Committee were able to inspect the whole property. The property is a first floor flat in a block of former student accommodation which is generally in a poor state of repair. It comprises a small hallway, living room, kitchen, bathroom and bedroom. The Tenant advised the Committee that the living room and hall lights have recently been repaired and demonstrated that they are now in working order. He also advised that a repair had been carried out to the inside of the front door frame. The damaged part of the frame has been boxed in by a wooden casing and the door now opens and closes satisfactorily. The Committee inspected the windows in the living room, kitchen and bedroom. These were noted to be timber single glazed central pivot windows. The frames are in a poor state of repair and starting to rot. The kitchen window does not close properly and has no latches to keep the window open. There is mould on the wall next to the window. The living room window was closed at the time of inspection. One of the window panes has a large crack across it which is covered with tape. The tenant advised that the crack was caused by the window blowing

shut in the wind and that he now keeps the window closed at all times in case the glass falls out and causes injury or damage. The bedroom window also has no latches to enable the window to be open or closed. The Tenant advised that he props the kitchen and bedroom windows open with objects in order to ventilate the property. There is mould on the wall next to bedroom window. Damp meter readings taken in both the kitchen and bedroom were in the green zone. The Committee noted the absence of any smoke or heat detectors in the property. There is no gas supply to the property and no CO detector. There are wires protruding from the wall in the hall for the door entry system but the handset is badly damaged and lying on the floor.

### **The Hearing**

8. At the Hearing the Tenant gave evidence. He advised that he has been the Tenant since 7 April 2015. Originally it was a joint tenancy with his partner. She no longer lives there. He stated that he does not have a current written tenancy agreement as the Letting agent advised him not to sign a new agreement until repairs had been carried out. His rent was being paid by way of housing benefit but this was suspended 6 weeks ago because he has been staying with his mother at 11 Mill Road, Torrance. He is planning to move back in on 4 July 2016 and anticipates that his housing benefit will be reinstated.
  
9. In response to questions by the Committee the Tenant advised that he noticed the lack of smoke and heat detectors and the defective lighting just after moving in. This was reported to the Letting Agent by phone calls on numerous occasions. He indicated that he has never met the Landlord and has dealt exclusively with the letting agent. The Tenant went on to advise that the door entry system has never worked. Initially it seemed to be permanently switched on which meant that people standing at the front door could hear what was being said in his flat. It then stopped working altogether. He advised that the problems with the handset were again reported at the beginning of his tenancy and subsequently. The damaged door frame was reported early in the tenancy. This was recently repaired. When the repair was carried out the door entry handset was removed from the wall and the wires left exposed. He indicated that he was told to keep the handset so that this could be repaired but no one has come to attend to this. The Tenant advised the Committee that the window latches have never worked and he has to prop the windows open with lighters and other objects. The damage to the living room window happened several months previously. The Tenant stated that there was no mould on the walls of the property when he moved in but that this developed over the winter months. The dampness behind the fridge at the socket caused the fridge to break. He was, however, provided with a new

one when this was reported. He indicated that there is also some water ingress where the windows don't close properly. The Tenant advised that the window frames can become saturated with rain and although he wipes them down regularly there is a lot of condensation, although not so much recently in the better weather. The Committee was advised that again the various problems with the windows were reported as and when they became apparent and that that several window contractors have attended at the property to inspect the windows and provide a quote for repair or replacement. The first of these told the tenant not to open the cracked window as it was dangerous. The Tenant was unable to provide specific details of when he reported the various repair issues and was vague about when some of the repair issues arose such as the damage to the pane of glass in the living room. He was however adamant that all matters were promptly reported to the Letting Agent.

10. The Tenant concluded his evidence by confirming that he does his best to heat and ventilate the property. The living room window however cannot be opened and the other two have to be propped open when he is in the flat. He makes limited use of the electric storage heaters in the property because they are too expensive but uses his own oil heaters in the living room and bedroom. He stated that although he had always reported the repair issues to the Letting agent he sent them a detailed email with all of the repairs issues prior to submitting his application. Finally, he advised the Committee that while he has been staying with his mum his asthma has improved which he feels supports his suspicion that that the mould and condensation in the property aggravate this condition.
  
11. Ms Mitchell of Igloo Letting gave evidence on behalf of the Landlord. Much of her evidence was based on the agency records which she had checked prior to attending the hearing. She confirmed that the tenancy had started in April 2015 and that it was initially a joint tenancy. She indicated that a representative of the company had carried out a walk round of the property with the tenants when an Inventory was signed. This was also an opportunity to note any defects. No defects were noted by the representative nor raised by the Tenants at that point. In response to questions by the Committee she conceded that the lack of smoke detectors ought to have been noted by the representative but this does not appear to have happened. An inspection was carried out in May 2015. The tenants again made no complaints. However, the representative did note the lack of smoke detectors and this was reported to the Landlord at that time. A tenancy renewal visit took place on 5 August 2015. At that point the Tenant raised concerns regarding the crack in the window, the faulty windows and the door entry system. Ms Mitchell was adamant that this was the first time any complaints had been made by the Tenant. The agency immediately reported

the matters to the Landlord and again mentioned the lack of smoke alarms. The Landlord responded stating that he would arrange repairs himself. In January 2016 a further inspection was carried out. A problem with the toilet floor was noted, together with damage to the front door frame. The door entry system and windows had not been repaired. Mould on the kitchen and bedroom walls was noted. A full report was sent to the Landlord. He asked the agency to arrange for a glazier and other repair men to provide quotes. These were obtained in February 2016 and passed on. The Landlord did not instruct her to arrange any repairs but did eventually arrange for another glazier to go out and provide a quote. She then spoke to the glazier who advised that the Landlord intended to get the windows of several properties replaced at the same time and negotiations as to price were ongoing.

12. Ms Mitchell advised the Committee that the Agency has notified the Landlord on numerous occasions of the repairs which are urgently needed but that he has failed to attend the repairs or instruct the agency to do so. She explained that she took over as letting manager in March 2016 and carried out the renewal visit to the property on 23 March. This was her first visit. At that time she advised the Tenant not to sign a new tenancy agreement for a fixed period because of the condition of the property. She discussed other options with him but he indicated that he was settled and wanted to stay. This being the case she advised him to continue on a month to month basis in order to keep his options open. She advised against withholding rent. Following her visit she telephoned the Landlord to discuss the lack of repairs and the condition of the property. She also sent photographs that she had taken and sent on the detailed email from the Tenant dated 12 April. At the request of the Landlord she obtained quotes for all of the outstanding work in early May 2016 and passed these on. Subsequently, some repairs were carried out. The glazier recently advised her that new windows had been ordered and were due to be fitted by 27 June 2016. Ms Mitchell explained to the Committee that the property has been empty since sometime in May 2016 following a police incident. The joint tenant terminated her interest in the tenancy at that time and the Tenant has been staying with his mother and during this period she has been unable to contact him by phone and he has not contacted the agency. She indicated that it is possible that some of the contractors instructed to carry out repairs have had similar problems. However, the agency holds a set of keys and she gave these to the electrician who said he was going to fix the intercom. She understands that this was not completed because there was no handset to install. The agency has not been asked by any other contractors for keys or access. Lastly, Ms Mitchell indicated that the landlord has not been easy to deal with. He refused to allow the agency to instruct repairs and has delayed to carry these out himself. She confirmed however that her Igloo Letting remain responsible for the management of the property.

13. The Tenant did not dispute that over the last few weeks he has not contacted the agency nor has it been possible for them to contact him. He indicated that he would not have had any objection to repairs being carried out at the property in his absence.

### **Findings in Fact**

14. The property is a first floor flat in a block of former student residences. It is accessed via a common hallway. The block is in a poor state of repair both internally and externally. The accommodation comprises a hall, living room, kitchen, bedroom and bathroom.

15. The Tenant has resided at the property since 7 April 2015. It was previously a joint tenancy. The joint tenant vacated the property in May 2016. The Tenant has no current written tenancy agreement and has not resided at the property since 11 May 2016. His tenancy is continuing on a month to month basis and he intends to resume occupation of the property on 4 July 2016.

16. The Landlord has been aware of some repair issues at the property since August 2015 and others since January 2016. The Tenant brought these issues to the attention of the Letting Agent who advised the Landlord. The Tenant has had no direct dealings with the Landlord.

17. Repairs to the property have been carried out. The living room and hall lighting are now in proper working order. The damage to the front door frame has been repaired so that the door now opens and closes.

18. The windows in the living room, bedroom and kitchen are defective. The kitchen and bedroom are affected by condensation and there is mould on the walls.

19. There are no smoke or heat detectors in the property.

20. The door entry system at the property is defective. There is no handset attached to the wall.

### **Reason for decision**

21. The Committee considered the issues of disrepair set out in the Application and noted at the inspection and hearing.



22. The Tenant and the letting agent were in agreement that the defective lighting and the damage to the front door frame have been rectified. This was also evident at the inspection of the property by the Committee. The Committee therefore concluded that no action is required in relation to these two issues. The parties were also in agreement in relation to the other repairs issues namely that the windows are defective, there is mould and condensation in the kitchen and bedroom, the door entry system does not work and there are no smoke or heat detectors in the property. These issues were also noted by the Committee at the inspection. The Committee was therefore satisfied that the Landlord requires to take action to repair or replace the windows and to replace the door entry handset, connect this to the wall, and carry out any further repairs required to ensure that the system is in working order. Hardwired interlinked smoke and heat detectors require to be installed. With regard to the mould on the walls this was noted to be restricted to an area next to the windows and the Tenant confirmed that it only developed during the winter. Damp meter readings taken were in the green zone. It therefore appeared to the Committee that the property is not affected by dampness but by condensation during the winter months largely attributable to the defective windows. The Committee concluded that after the windows have been repaired the walls should be cleaned with fungicidal product and re-painted. The Tenant should thereafter ensure that the property is properly heated and ventilated.

23. There were two areas in which the evidence conflicted. Firstly, the Tenant stated that he started making complaints regarding repairs issues from the very start of the tenancy and immediately after any new issues arose. Ms Mitchell disputed this saying that the agency records indicate that it was May 2015 when the lack of smoke detectors was raised, August 2015 when the defective windows and door entry system were noted and January 2016 when the mould was noted. Ms Mitchell confirmed however that she was not personally involved with the property until March 2016. The Tenant was vague about details but certain that he had made phone calls. The Committee concluded that it did not need to decide whose evidence was preferred. The Letting agent confirmed that the Landlord is fully aware of all of the repairs matters at issue and that he was notified of same at various stages between May 2015 and April 2016. The evidence supported the conclusion that the Landlord has had sufficient notification of and opportunity to attend to repairs. Indeed he recently arranged for the lighting and the door frame to be fixed and window contractors to inspect the windows. The second issue was the fact that the Tenant has been out of contact with the Letting Agent since May 2016. The Tenant was of the view that repairs could have been carried out in his absence. The Letting agent indicated that she had been unable to get in touch with him and expressed the view that some of the contractors instructed, in particular the window contractor, might have been

trying to contact the Tenant direct and that this was the reason for the new windows not being installed by the 27 June. She was however not certain that this was the case. The Committee was not persuaded that the Tenants recent absence and lack of contact was significant. The window contractor had not contacted the agency for access. They have a set of keys and could have provided access. The Committee therefore concluded that the recent lack of contact by the Tenant with the agency had not prevented repairs been carried out.

24. The Committee accordingly took the view that it will require to make a Repairing Standard Enforcement Order in respect of the windows, the mould on the walls, the door entry system and the lack of smoke and heat detectors. The Committee considered that in addition to the elements of the repairing standard identified by the Tenant in his application the Landlord had also failed to ensure that the property is wind and watertight and reasonably fit for habitation.

### **Decision**

25. The Committee accordingly determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

26. The Committee proceeded to make a Repairing Standard Enforcement Order as required by section 24(1)

27. The decision of the Committee was unanimous

### **Right of Appeal**

**28. 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**

29. 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 Bonnar**   
Josephine Bonnar, Chairperson

# SCHEDULE OF PHOTOGRAPHS

16 CLYDE HOUSE, THE FURLONGS, HAMILTON ML30BA

PRHP/RP/16/0154

30<sup>TH</sup> JUNE 2016



FRONT ELEVATION



LIVING ROOM LIGHTING



HALL LIGHTING



KITCHEN WINDOW-MOULD



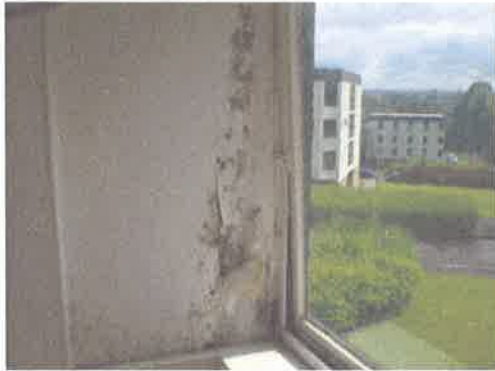
KITCHEN WINDOW- LATCHES



**KITCHEN WINDOW-CATCH**



**LIVING ROOM WINDOW**



**BEDROOM WINDOW-MOULD**



**KITCHEN WALL- MOULD**



**METER READING**



**METER READING**



**ENTRANCE DOOR FRAME/WIRING FOR DOOR BUZZER**