



REPAIRING STANDARD ENFORCEMENT ORDER

BY THE

PRIVATE RENTED HOUSING COMMITTEE

PROPERTY:

Ground Floor Flat, 36, John Street, Helensburgh G84 8XL registered in the Land Register for Scotland under title number DMB12735

PARTIES:

**Ms Lorna Iles, residing at the property, represented by Peter McNab, her agent
("the Tenant")**

**Abdul Qadir Sheikh, represented by AK Properties, 64 Seaward Street, Glasgow G41 1HJ,
("the Landlord")**

PRHP Reference: prhp/G84/30/12

REPAIRING STANDARD ENFORCEMENT ORDER ('RSEO')

1. **WHEREAS** in terms of their decision dated 10 May 2012 the Private Rented Housing Committee ('the 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 the property fails to meet the repairing standard as set out in section 13(1) of the Act.
2. The Committee now requires the landlord carry out such work as is required to ensure the property meets the repairing standard and that any damage caused as a consequence of carrying out of any works in terms of this Order are also made good before the expiry of the Completion Date.

THE ORDER

3. In particular, and without prejudice to the foregoing generality, the Committee **HEREBY ORDERS** the landlord to carry out the following repairs ('the Works');-
- 1) To repair or replace the pointing and putty in the windows and surrounds in the rear bedroom (right) of the property and to replace the rotten timbers and sill as necessary. Broken or cracked glass should also be replaced. In addition the condition of timbers behind the panelling beneath the window should be investigated and repaired or replaced as appropriate to ensure that the window is wind and watertight as required by the repairing standard.
 - 2) To repair or replace as necessary the double glazed units in the front room of the property to ensure the integrity of the units. In addition to investigate the source of any water ingress in the vicinity of the windows and to make good as necessary, all to render them wind and watertight as required by the repairing standard
 - 3) To make good all damage, decoration and remedial works occasioned by such works.
4. The Committee **HEREBY FURTHER ORDERS** that the Works specified in this Order must be carried out and completed before the expiry of the Completion Date of 6 weeks from the date of service of this Order.

RIGHT OF APPEAL

5. A landlord or tenant has the right to appeal this decision to the Sheriff by summary application within 21 days of being notified of that decision.

EFFECT OF APPEAL

6. In terms of section 63 of the Act, where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by confirming the decision, the decision and any 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 consisting of this and the preceding two pages are subscribed as follows:-

D Preston

.....Chairman

.....20 May 2012.....Date of Signing

.....Oban.....Place of Signing

S Preston

.....Witness

.....Sheila Preston.....Name

....Westbank.....Address

...Duncraggan Road.....

....Oban.....

....Argyll.....



PRIVATE RENTED HOUSING COMMITTEE

STATEMENT OF DECISION OF THE PRIVATE RENTED HOUSING COMMITTEE UNDER SECTION 26(1)) OF THE PRIVATE RENTED HOUSING PANEL (APPLICATIONS AND DETERMINATIONS)(SCOTLAND) REGULATIONS 2007

In connection with

PROPERTY:

**Ground Floor Flat, 36, John Street, Helensburgh G84 8XL
(hereinafter referred to as "the Property")**

PARTIES:

**Ms Lorna Iles, residing at the property, represented by Peter McNab, her agent
(hereinafter referred to as "the Tenant")**

**Abdul Qadir Sheikh, represented by AK Properties, 64 Seaward Street,
Glasgow G41 1HJ (hereinafter referred to as "the Landlord")**

PRHP Reference: prhp/G84/30/12

Decision

The Committee, having made such enquiries as is 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 both the Landlord and the Tenant at the hearing as well as their written representations, determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 (hereinafter referred to as "the Act").

Background

- 1. By application dated 3 February 2012 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:-

(a) the house is wind and watertight and in all other respects reasonably fit for human habitation.

3. By Notice of Referral dated 21 February 2012 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 comprised the following members:

Mr. David M Preston, Legal Member
Mr. Mike Links, Surveyor Member
Mr. Tom Keenan, Housing Member

4. The Private Rented Housing Committee served Notice of Inspection and Hearing under and in terms of Schedule 2, Paragraph 1 of the Act upon both the Landlord and the Tenant. Following service of the Notice of Referral the Tenant made no further written representations to the Committee. The Landlord by letter dated 1 March 2012, made written representations to the Committee and indicated that he did not intend to attend the inspection or hearing.
5. The Private Rented Housing Committee inspected the Property on the morning of 10 May 2012. The Tenant was present, but the Landlord was neither present nor represented.
6. Following the inspection of the Property the Private Rented Housing Committee held a hearing at Victoria Halls, Sinclair Street, Helensburgh. The Tenant and her agent, Mr McNab were present, but the Landlord was neither present nor represented. In view of the Landlord's stated intention not to attend the hearing, the Committee determined to proceed in his absence. The Committee considered the written evidence submitted by both parties, and heard evidence from the Tenant.
7. The written and documentary evidence submitted by the Tenant comprised:
 - 7.1. The application
 - 7.2. Copy letter to the Landlord dated 3 February 2012
 - 7.3. Copy lease dated 1 April 2011
8. The written and documentary evidence submitted by the Landlord(s) in response to the Direction comprised:
 - 8.1. Said letter accompanying response form from Landlord dated 1 March 2012.
9. At the outset, Mr McNab advised that he no longer ran his money advice clinic and that he was now present as a 'friend' for the Tenant. The Tenant advised the Committee that she had been having the problems complained of since she moved into the property and that she had advised the Landlord about them, although he denied having such information. She also advised that a joiner had come to the property the previous day and that he had measured up the windows in the property. She stated that this had happened previously but nothing further had happened following such visits.

Summary of issues

10. The issue to be determined was whether the property meets the repairing standard as laid down in Section 13 of the Act and whether the Landlord had complied with the duty imposed by Section 14(1)(b).

Findings in Fact

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

- 11.1. On 1 April 2011, the Tenant entered into a lease with the Landlord for the rent of the property. This is an assured lease under the Housing (Scotland) Act 1988. The provisions in Chapter 4 of the Act apply.
- 11.2. The tenant duly notified the Landlord of the required works to the property.
- 11.3. The property is a ground floor flat and comprises a purpose built ground floor tenement flat situated within a two storey and attic building, built approx 130 years ago. The accommodation of the flat comprises Entrance Hall, Living Room, two Bedrooms, Kitchen and Bathroom/wc. The house is not a listed building.
- 11.4. The inspection revealed that:
 - 11.4.1. The window in the bedroom is probably the original single glazed sash and case window. The window frame appeared reasonably sound, but the lower sash window was seen to be cracked. The window sill was badly affected by rot and the putty and pointing in the window and in the surrounds was seen to be in need of repair. There was evidence of possible rot at floor level in the bedroom which might have resulted from water ingress through the rotten sill.
 - 11.4.2. The window in the front room was a UPVC double glazed unit in which the lower panes were both cracked. The seals in the double glazed units were seen to have failed with condensation evident. The Committee saw no evidence of water ingress but the Tenant explained that when the weather is severe, water drips from the wood panelling above. She advised that measures had been taken in relation to the gutters but the problem had persisted. The Committee saw no evidence of water damage, but had no reason to disbelieve the Tenant's description.

Reasons for the decision

12. The Committee was satisfied by its inspection of the property that the problems complained of by the Tenant were established. The rotten sill in the bedroom led to water ingress, which would deteriorate further if not attended to. The cracked window pane would also contribute to water and wind ingress. In the front room, the condition of the window panes and seals required attention to prevent further deterioration and water ingress.

Decision

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

Right of Appeal

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

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..... **D Preston** 
Chairperson

Date..... 20/5/12