



PRIVATE RENTED HOUSING PANEL

REPAIRING STANDARD ENFORCEMENT ORDER

THE PROPERTY

62 Burnfoot Crescent, Paisley PA2 8NP, registered in the Land Register for Scotland under Title number REN50027

THE PARTIES

Ms Evelyn McMahon, residing at the property, per Renfrewshire Citizens Advice Bureau, 45, George Street, Paisley PA1 2JY (hereinafter referred to as 'the tenant')

and

Gordon Henry Alexander Cooley, sometime of 60 Parkmanor Avenue, Glasgow and Mark McCafferty, sometime of 54a, Levernbridge Road, Nitshill, Glasgow G53 7EB, and both now of Unit 10-12, Evanton Place, Thornliebank, G46 8JE (hereinafter referred to as "the landlords")

PRHP Ref: RP/15/0278

Committee Members – David Preston (Chairperson); Andrew Taylor (Surveyor Member)

REPAIRING STANDARD ENFORCEMENT ORDER ('RSEO') AGAINST THE LANDLORD

1. **WHEREAS** in terms of its decision dated 10 January 2016 the Private Rented Housing Committee ('the Committee') determined that the landlords had 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 failed to meet the repairing standard as set out in section 13(1) of the Act.
2. The Committee now requires the Landlords to 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 is 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 Landlords to carry out the following repairs ('the Works');-
 1. Carry out such works as are necessary to make good water/condensation staining to back bedroom cupboard wall and front bedroom ceiling including all decoration.
 2. Fit collar internally where WC soil pipe passes through external wall to eliminate draught.
 3. Complete making good kitchen worktop and external wall at previous fire damage, including any necessary insulation and decoration and including within the kitchen unit.
 4. Replace existing living room and front bedroom double glazed window units so that they are wind and watertight and in proper working order: including all finishings, making good and decoration.

5. Provide handle for rear bedroom window hopper and leave in proper working order.
6. Replace damaged kitchen wood laminate flooring.
7. Carry out such works as are necessary to external access stair treads, risers, landings, walls and coping to ensure they are structurally sound and safe for use.
8. Replace damaged and/or missing chespale fencing forming boundary between Blocks 62/68 Burnfoot Crescent and 54/60 Burnfoot Crescent.
9. Provide and install smoke detection and alarm equipment in accordance with the British Standard on the design of fire detection installations for dwellings (BS5839 Part 6) in conjunction with the Scottish Government's Technical Handbook 2013 Domestic under Section 2 -Fire, Sub-section 2.11 Communication and ensure the property complies with the Scottish Government Statutory Guidance for the Provision of Carbon Monoxide Alarms in Private Rented Housing. Full details can be found on the PRHP website:

<https://www.prhpscotland.gov.uk/repairs-application-and-guidance>

4. The Committee **HEREBY FURTHER ORDERS** that the Works specified in this Order must be carried out within **six** weeks from the date of service of this Order.

RIGHT OF APPEAL

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

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



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:

62 Burnfoot Crescent, Paisley PA2 8NP, registered in the Land Register for Scotland under Title number REN50027 (hereinafter referred to as "the Property")

PARTIES

Ms Evelyn McMahon, residing at the property, per Renfrewshire Citizens Advice Bureau, 45, George Street, Paisley PA1 2JY (hereinafter referred to as 'the tenant')

and

Gordon Henry Alexander Cooley, sometime of 60 Parkmanor Avenue, Glasgow and Mark McCafferty, sometime of 54a, Lovernbridge Road, Nitshill, Glasgow G53 7EB, and both now of Unit 10-12, Evanton Place, Thornliebank, G46 8JE (hereinafter referred to as "the landlords")

PRHP Reference: prhp/rp/15/0278

Decision

The Committee, having made such enquiries as is fit for the purposes of determining whether the landlord had complied with the duty imposed by Section 14 (1)(b) in relation to the house concerned, 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 12 October 2015 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 she 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:
 - (a) the house is 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 in proper working order; and
 - (c) the house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.
3. In particular the tenant, through her agents, complained as follows:
 - a) Damp in both bedrooms, caused by water ingress
 - b) Hole in bathroom wall which lets in draught
 - c) No insulation under kitchen window – leaving exposed brickwork
 - d) Front bedroom window does not close
 - e) Living room window does not close
 - f) No handle on window in back bedroom
 - g) Kitchen flooring is breaking up
 - h) Garden fence is down
 - i) External stairs are crumbling and treacherous
 - j) No smoke alarms/fire detection in property
 - k) Hole in kitchen cupboard
 - l) No insulation replaced from fire damage in back bedroom, kitchen and bathroom
 - m) Window frame in bedroom not complete.
4. By Notice of Referral, Inspection and Hearing dated 18 November 2015 the President of the Private Rented Housing Panel ('the President') 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. Andrew Taylor, Surveyor Member

5. Following service of the Notice of Referral no further representations were received from the tenant and no representations were received from or on behalf of the landlords.

Inspection

6. The Private Rented Housing Committee attended at the property on the morning of 7 January 2016 for the purpose of carrying out the inspection. Present at the property were: the tenant, accompanied by Mr Dan Lockyer of Renfrewshire Citizens Advice Bureau; and Mr Gordon Cooley, representing the landlords.
7. The property comprises the upper westmost flat of a Block of four flats, formerly local authority property built around 1930. The property is of traditional construction with rendered brick walls and a pitched tiled roof. The property was accessed by its own door to the side. Accommodation comprised: living room with kitchen off; two bedrooms; and bathroom. (See Photograph "the property" attached)
8. It was reported to the Committee and referred to in the application and representations by the tenant that there had been a fire in the property some eighteen months

previously which had resulted in damage to the kitchen, bathroom and rear bedroom. Remedial work had been carried out to the affected areas, but the tenant complained that some further works required to be completed.

9. The inspection revealed:

- a) In respect of item 3(a) above: in the rear bedroom, some signs of mould in the rear corner of a built in cupboard. On investigation by the surveyor member it was ascertained that there was not an unacceptably high damp meter reading. The Committee concluded that this was unlikely to have been caused by water ingress but by moderate condensation; in the front bedroom, the Committee noted an area of discolouration in the ceiling caused by dampness. It was reported that this had been caused by slipped or missing roof tiles and both the tenant and landlord reported that the roof had been repaired – (see Photographs “condensation back bedroom cupboard” and “water staining front bedroom ceiling” attached).
- b) In respect of item 3(b) above: the Committee observed that there was a hole in the wall lining at the point of exit of the WC outlet which required a collar to be fitted - (see Photograph “soil pipe at bathroom” attached)
- c) In respect of item 3(c) above: the Committee observed that the remedial work which had been carried out in the kitchen had not been finished off and the wall had not been fully lined in the rear right hand corner of the kitchen and at the back of the kitchen unit at that point. (see Photographs “kitchen wall/worktop” attached)
- d) In respect of item 3(d) above: the Committee did not find there to be any problem with closing mechanism of the front bedroom window however the hopper units fitted poorly and were not in a reasonable state of repair and in proper working order - (see Photographs “front bedroom window hopper” attached).
- e) In respect of item 3(e) above: the Committee did not find there to be any problem with the closing mechanism of the living room window, however, the hopper units fitted poorly and were not in a reasonable state of repair and in proper working order - (see Photographs “living room window hopper” and “living room window” attached).
- f) In respect of item 3(f) above: the Committee observed that there was a missing handle on the left hand upper window - (see Photograph “missing handle back bedroom” attached).
- g) In respect of item 3(g) above: the Committee noted that the laminate flooring at lost lamination over a significant area - (see photograph “laminate flooring kitchen” attached).
- h) In respect of item 3(h) above: the Committee observed that a section of the boundary fence between the block of which the property formed part and the neighbouring block appeared to have been removed. The Committee also noted that the remaining part of the boundary fence was broken down - (see Photographs “damaged intermediate chespale fence” and “missing intermediate fence” attached).
- i) In respect of item 3(i) above: the Committee noted that a coping stone was missing from the wall adjacent to the stair. At the inspection, the tenant confirmed that this was the problem which had been identified by her in the application and as the coping stone had been removed by the landlord she did not consider that it was now dangerous - (see photograph “external access stairs” attached).
- j) In respect of item 3(j) above: the Committee noted that there was one smoke detector fitted in the hallway which, as far as the Committee could see was battery-operated. The tenant reported that the Fire Brigade had fitted that detector some months previously - (see photographs “battery smoke alarm” and “carbon monoxide detector (living room)” attached).
- k) In respect of item 3(k) above: the Committee observed that the hole referred to in the kitchen cupboard was related to the issue at (b) above.

- l) In respect of item 3(l) above: the Committee was not in a position to observe any missing insulation.
 - m) In respect item 3(m) above: the Committee noted that a new apron had been fixed below the window in the rear bedroom at the tenant confirmed that this issue had been made - (see Photograph "missing handle back bedroom" attached).
10. Mr Cooley, on behalf of the landlords, advised that he had made arrangements for contractors to call at the property to carry out further work that was required but that the tenant had said that, following the death of her father, she could not cope with contractors in the property. He had expected that the tenant would revert to him when she felt able, but she had not done so. He explained that the rear wall of the property had been re-built with insulated blocks and the windows at the rear had been replaced. He had also attended to the leak in the roof when it had been reported to him.
11. He advised that, in any event the landlords intended to carry out further works, as follows:
- a) In respect of item 3(b), they intended to fit a collar WC outlet;
 - b) In respect of items 3(d) and (e), replacement windows had been ordered but the ones which had been delivered were the wrong colour and had been returned for replacement.
 - c) In respect of item 3(g), they intended to replace the kitchen flooring.
 - d) In respect of item 3(i), the coping stone which had been loose had been removed to make the stair safe.

Hearing

12. Following the inspection a hearing took place at Wellington House, 134 – 136 Wellington Street, Glasgow. The tenant and Mr Lockyer were in attendance at the hearing. The landlord had advised during the inspection that he was unable to attend the hearing and had accordingly voluntarily chosen not to do so, although the Committee heard his representations at the inspection.
13. Mr Lockyer on behalf of the tenant advised that many of these matters had been ongoing for over the past eighteen months, which he regarded as an unreasonable time. A number of the issues had arisen at the time of the fire when a contractor had accidentally set light to cavity wall insulation. Following the initial remedial work, which had not been fully completed, the property had not been reinstated to a wind and watertight condition which had resulted in the application being submitted.
14. Mr Lockyer indicated that since the remedial work, the back bedroom was found to be several degrees colder than previously and it was reported that when the tumble dryer was in use that room was affected by condensation, even if the kitchen window was open.

Summary of issues

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

Findings and Reasons

16. In coming to its decision, the Committee had regard to: the terms of the application; the letters from Renfrewshire Citizens Advice Bureau; the representations made by the

landlord during the inspection and by tenant at the hearing; and its observation during the inspection.

17. The Committee made the following findings in respect of the issues raised:

- a) The Committee did not find there to be damp in either bedroom. The Committee found that the moderate area of condensation in the cupboard in the rear bedroom was to be expected in a property of that type and was capable of being alleviated with the proper balance of heating and ventilation. While the roof had been repaired over the front bedroom, the ceiling required to be redecorated.
- b) The Committee found that it would be necessary for a collar to be fitted to the WC outlet. In any event the Committee noted that the landlords had undertaken to attend to this and it determined to make an order in any event.
- c) The Committee found that it was necessary for the remedial work in the right hand rear corner of the kitchen ie in the site of the fire, to be completed and made good, including any necessary insulation and decoration including within the kitchen cupboard referred to at item (k). The Committee determined to make an order in this regard.
- d) Having found the hoppers to be in poor condition, and having noted that the landlords had undertaken to replace the window, the Committee determined to make an order in that regard.
- e) As in (d) above, having found the hoppers to be in poor condition, and having noted that the landlords had undertaken to replace the window, the Committee determined to make an order in that regard.
- f) The Committee found that it would be necessary for a handle to be fitted to the back bedroom window.
- g) The Committee found that it would be necessary for the kitchen floor to be repaired or replaced although noted that the landlords had undertaken to replace the flooring. As this had formed part of the application the Committee determined to make an order in this regard.
- h) The Committee found that missing section of garden fence would require to be replaced and the remainder of the fence required to be repaired or replaced. The Committee determined that this would form part of the order. The Committee acknowledged that this would be a shared responsibility between the landlords and the proprietors of neighbouring properties. However the fencing formed part of the subject of lease and as such falls within the requirements of the Act so far as the landlord's obligations to maintain it are concerned.
- i) The Committee found that the missing coping stone required to be replaced. Whilst the absence of the coping stone did not give rise to health and safety concerns, the wall of which it had formed part could not be said to be in a reasonable state of repair whilst it was missing.
- j) The Committee noted that the battery operated smoke detector in the hall did not meet the current regulations and requirements for smoke/fire detection.
- k) See (c) above.
- l) The Committee found no evidence of missing insulation in the back bedroom, kitchen and bathroom. It noted that the representations of the tenant in this regard but, without extensive intrusive examination or some further evidence of inadequate insulation, it was unable to make any finding. The Committee was aware that the use of condensing tumble dryer units was a common problem in properties of this nature.
- m) The Committee noted that the window frame finishings in the bedroom had been completed, which was acknowledged by the tenant.

Decision

18. The Committee accordingly determined that the Landlords had failed to comply with the duty imposed by Section 14(1)(b) of the Act.
19. The Committee proceeded to make a Repairing Standard Enforcement Order as required by section 24(1).

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.

10-Jan-16

D Preston

X

CHAIRMAN

Signed by: DAVID MICHAEL PRESTON



62 Burnfoot Crescent, Paisley, PA2 8NP.
PRHP/RP/15/0278
Schedule of Photographs - Inspection Date 7/01/2016
Weather – Heavy Rain



The property



Condensation back bedroom cupboard



Missing handle back bedroom



New apron back bedroom window



Battery smoke alarm



Carbon Monoxide Detector
(living room)



External access stairs



Damaged intermediate chespaie
fence



Missing intermediate fence