



Repairing Standard Enforcement Order
Ordered by the Private Rented Housing Committee

prhp Ref: RP/13/0089

Re: 106 Dundee Drive, Cardonald, Glasgow G52 3HN ("the Property")

Title Number: GLA153545

The Parties:-

WILLIAM CRAWFORD, residing at 106 Dundee Drive, Cardonald, Glasgow G52 3HN ("the Tenant")

WEARWELL PROPERTIES LIMITED, a company incorporated under the Companies Acts (Company number SC254022) and having its registered office at 50 Battlefield Road Glasgow, G42 9QH ("the Landlord")

NOTICE TO

WEARWELL PROPERTIES LIMITED, a company incorporated under the Companies Acts (Company number SC254022) and having its registered office at 50 Battlefield Road Glasgow, G42 9QH

WHEREAS in terms of their decision dated 14 February 2014, the Private Rented Housing Committee have determined that the Landlord has failed to comply with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 and in particular that the Landlord has failed to comply with the duty to ensure that the Property is wind and water tight and in all other respects reasonably fit for human habitation, the structure and exterior of the Property are in a reasonable state of repair and in proper working order, the installations in the Property for the supply of gas and space heating were in a reasonable state of repair and in proper working order and that the Property 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 to the Property as is necessary so that it meets the Repairing Standard in respect of section 13(1)(a), 13(1)(b), 13(1)(c) and 13(1)(f) of the Act. In particular, the Private Rented Housing Committee require the Landlord to do the following.

1. Carry out such repairs to the roughcast and repairs and/or replacement of all the windows in the Property as are necessary to (a) render the Property wind and water tight and in all other respects reasonably fit for human habitation

- and (b) put the structure and exterior of the Property in a reasonable state of repair and in proper working order.
2. Carry out such repairs and draught proofing to the warped frame of the front door as are necessary to (a) render the Property wind and water tight and in all other respects reasonably fit for human habitation.
 3. Have the boiler serviced and such other repairs carried out as may be required to render it in a reasonable state of repair and in proper working order so that an adequate supply of heating is delivered to the Property let to the Tenant and obtain an appropriate gas safety certificate, prepared by a suitably qualified engineer.
 4. Install a hard wired smoke detector in the Property so as to ensure that the Property has provision for detecting fires and for giving warning in the event of fire or suspected fire and provide written evidence from a suitably qualified electrician that the smoke detection equipment has been tested and found to be satisfactory for the Property.
 5. Any damage caused by the carrying out of any of the works in terms of this Order is made good.

The Private Rented Housing Committee orders that the work specified in this Order should be carried out not later than three months from the date of service of this notice on the Landlord.

A landlord or a tenant aggrieved by this 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 variation is suspended until the appeal is abandoned or finally determined, and where the appeal is abandoned or finally determined by confirming the decision, the variation 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 Pino Di Emidio, Chairman of the Private Rented Housing Committee at Edinburgh on Fourteenth February two thousand and fourteen before this witness:-

A Stalker

... Witness

P Di Emidio

... Chairman

Adrian George Stalker Advocate
 Advocates' Library
 Parliament Square
 Edinburgh
 EH1 1RF



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

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Re: 106 Dundee Drive, Cardonald, Glasgow G52 3HN ("the Property")

Title Number: GLA153545

The Parties:-

WILLIAM CRAWFORD, residing at 106 Dundee Drive, Cardonald, Glasgow G52 3HN ("the Tenant")

WEARWELL PROPERTIES LIMITED, a company incorporated under the Companies Acts (Company number SC254022) and having its registered office at 50 Battlefield Road Glasgow, G42 9QH ("the Landlord")

Summary of Decision

The committee, having made enquiries 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 in relation to the Property, and taking account of the evidence led by both the Landlord and the Tenant at the hearing, determined that the Landlord has failed to comply with the duty imposed by Section 14(1)(b) of the Act in respect that the Property does not meet the Repairing Standard in respect of section 13(1)(a), 13(1)(b), 13(1)(c) and 13(1)(f) of the Act for the reasons set out below.

Background

1. By application dated 2 September 2013 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") in respect of the Property.
2. In his application the Tenant stated that the Landlord had failed to comply with the duty to ensure that the house meets the repairing standard in certain respects. In particular that he alleged that the Landlord had failed to ensure that the house is wind and water tight and in all other respects reasonably fit for human habitation and that the house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire. Although the Tenant did not expressly make a complaint at section 4 of his application form that the Landlord

had failed to ensure that the installations in the house for the supply of gas and space heating were in a reasonable state of repair and in proper working order he did state at section 5 of the form that the boiler had not been serviced for a number of years. As the Landlord had proper prior notice of this head of complaint, the committee has proceeded on the basis that the Tenant has included in his application a complaint that the installations in the house for the supply of gas and space heating were in a reasonable state of repair and in proper working order.

3. The President of the Private Rented Housing Panel decided to refer the application under Section 22 (1) of the Act to a Private Rented Housing Committee.
4. On 30 October 2013 the Private Rented Housing Committee served notice of referral under and in terms of Schedule 2 paragraph 1 of the Act on both the Landlord and the Tenant intimating that the application had been referred to it for determination.

Inspection

5. The Private Rented Housing Committee (comprising Pino Di Emidio, Chairman and Legal Member, Carol Jones, Surveyor Member and Ahsan Khan, Housing Member) inspected the Property on 13 January 2014 at 10 am. The Tenant was personally present. The Landlord was represented by Mr. James O'Donnell.

Hearing

6. Following the inspection of the Property, the committee, with the consent of both parties, convened a hearing within the Property. The hearing was due to take place at the Europa Building, 450 Argyle Street, Glasgow later the same morning. At the start of the inspection the Tenant advised the committee that he was unable to attend the scheduled hearing owing to an urgent medical appointment which arose from a difficulty that had occurred on the previous business day. He also stated he wished to attend the hearing of his case. In these circumstances, having regard to the terms of Regulation 19(2) of The Private Rented Housing Panel (Applications and Determinations) (Scotland) Regulations 2007 (SSI 2007/173), the committee decided that the hearing could be heard in private within the Property. The committee concluded that it was necessary hold the hearing within the Property in order to ensure a fair hearing as the Tenant would

otherwise have been unable to attend a public hearing later that day. The Tenant and the Landlord's representative Mr. O'Donnell were both in attendance, gave evidence and addressed the hearing which commenced a short time after the inspection was completed.

Summary of the issues

7. The issues to be determined by the committee are whether or not the Property meets the repairing standard in terms of section 13(1)(a) and 13(1)(f) of the Act as at the date of the hearing. In particular (a) whether the house is wind and water tight and in all other respects reasonably fit for human habitation as required by section 13(1)(a); (b) whether the installations in the house for the supply of gas and space heating were in a reasonable state of repair and in proper working order; and (c) whether the house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire as required by section 13(1)(f).

Findings in Fact

8. The committee makes the following findings in fact.
 - 8.1. The title to the subjects known as 106 Dundee Drive, Cardonald, Glasgow G52 3HN is held by Wearwell Properties Limited a company incorporated under the Companies Acts (Company number SC254022) and having its registered office at 50 Battlefield Road Glasgow, G42 9QH. Its interest was registered in the Land Register of Scotland under title number GLA153545 on 5 September 2012.
 - 8.2. The Property which is the subject of this application forms part of a four in a block property comprising numbers 100, 102 104 and 106 Dundee Drive. It is the lower floor dwellinghouse on the North West side of the block. Number 104 is immediately above. It is entered from a door at the north-west side of the larger subjects of which it forms a part. It comprises a living area, a lounge, a bedroom, a kitchen, a bathroom and a box room. It is known as 106 Dundee Drive, Cardonald, Glasgow G52 3HN.
 - 8.3. On 2 September 2013 the Tenant entered into a Short Assured Tenancy Agreement ("the Agreement") to let the Property from the Landlord. A copy of the Agreement was produced along with the application. The Landlord was stated in the Agreement to be "Wearwell Properties having its registered office

at 50 Battlefield Road Glasgow, G42 9QH". A valid tenancy was created in terms of the said Agreement. Notwithstanding the omission of the word "Limited" from its designation in the Agreement, the Landlord is Wearwell Properties Limited which hold the title to the Property as set out in finding in fact 8.1. The Tenant had been in occupation under an earlier agreement prior to the commencement of the current Agreement. The rent was stated to be £480 per month in the Agreement.

8.4. There are two windows to the front of the Property, one to the side and two to the rear. Each window is timber framed and single glazed. On internal inspection all the windows were found to be suffering from condensation with extensive staining to frames and sills. The tenant has used silicone to try and seal them and it was noted that the bathroom window frame and sill were severely rotten.

8.5. On external observation the roughcast around all the windows was found to have been patched however these repairs are unsound as the cracks have reappeared and small areas of roughcast are spalling:

8.5.1. the large bay window to the front was weathered, the frame and sill were rotten and the roughcasting around it was cracked;

8.5.2. the small window to the front was weathered, the frame and sill were rotten and the roughcasting all around it was cracked;

8.5.3. the window of the bathroom to the side of the house had exposed brickwork to the side of the sill, the frame and sill were rotten and the roughcast at the top of the window was cracked;

8.5.4. the large window to the rear was weathered, the brickwork all around the window was in very poor condition, the frame and sill were rotten and there was cracks in the roughcast above the window;

8.5.5. the small window to the rear was very weathered, the frame and sill were rotten and the roughcasting all around it was cracked.

8.6. The front door frame was warped and there was a gap that allowed water to enter the Property.

8.7. The boiler was stated by the Tenant to be working. It had not been serviced since about 2009.

8.8. There was no working smoke alarm in the Property.

Reasons for the Decision

9. At the inspection it was observed that all of the windows were in a poor state of repair as set out in the findings in fact. The Property is situated on a slope. There are a number of steps that lead from the street to the front of the house. The rear garden rises steeply from the back of the house. As a result rain water collected in the garden tends naturally to flow towards the back of the house. The whole area of the garden near the back wall of the house is damp.

10. At the start of the hearing the Chairman asked the Surveyor Member to report on the findings at the inspection. The state of all of the windows was noted as set out in the findings in fact. It was noted that they required to be replaced or at least extensively repaired. The front door frame is warped and daylight could be seen from inside the hallway when looking towards the closed front door. It is not wind and water tight. The boiler was stated by the Tenant to be working but some of the plaster around it needed minor repair. There was no functioning smoke alarm in the Property.

11. Mr. O'Donnell of the Landlord gave evidence and addressed the committee. He accepted frankly (as he had in earlier written submissions) that all the windows in the Property were in a poor state of repair. He considered that they needed to be replaced. He estimated that he would require about 4-5 weeks to carry out this work. He also accepted that the front door required repair. He estimated it would require a few days for this work to be done. It was furthermore acknowledged that the boiler requires to be serviced. Mr. O'Donnell also accepted that a hard wired smoke alarm should be installed. He expected to be able to organise this work within a few days.

12. Mr. O'Donnell explained that his wife Mrs. Margaret O'Donnell normally dealt with the management of this property which is one of a number let out by the Landlord. The Landlord had been aware of the poor state of repair of the windows. Mrs. O'Donnell had made arrangements for a contractor to call to measure the windows in March 2012 but the Tenant had refused to allow access. The Landlord had also wished to install a new boiler at the property some time prior to the hearing but had been refused access for this purpose.

13. The Tenant gave evidence and addressed the committee. He confirmed that the Landlord sent a contractor to measure the windows. He had understood from the contractor that he would have to pay for the new windows. He stated that he had refused access because he did not think he should have to pay for the repair or replacement of the windows. He assured the committee that he would allow the Landlord access to carry out the works in the event that a Repairing Standard Enforcement Order is made which requires the Landlord to carry out works the Property at the Landlord's expense. As a matter of principle he did not wish the Landlord to seek discretionary public funding which was dependent on his benefits entitlement for any works to the Property.
14. The committee noted that the Landlord accepted that the windows were in a very poor state of repair and not wind and water tight, that the front door needed to be repaired to render it wind and water tight, that the boiler had not been serviced for some years and that there was no working smoke alarm in the Property.
15. So far as the windows and the front door are concerned, the Property did not meet the repairing standard in terms of section 13(1)(a) in that the house is not wind and water tight and in all other respects reasonably fit for human habitation. The state of the windows also amounted to a failure to meet the repairing standard in terms of section 13(1)(b) (the structure and exterior of the house are not in a reasonable state of repair and in proper working order). Although the boiler was stated to be working by the Tenant, it was accepted by Mr. O'Donnell that it had not been serviced for some years. As a result the committee could not be satisfied that the installations in the house for the supply of gas and space heating were in a reasonable state of repair and in proper working order in terms if in terms of 13(1)(c). The absence of a working smoke alarm means that the house does not have satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire in terms of 13(1)(f) as at the date of the hearing. In consequence the landlord is in breach of the duty under section 14(1)(b) of the Act to ensure that the Property meets the repairing standard in all these respects.

Decision

16. From the inspection, and the submissions of the Landlord, that there are undisputed breaches of Section 13(1)(a), (b), (c) and (f) of the Repairing Standard in this case.

17. The committee proceeded to make a Repairing Standard Enforcement Order. Having regard to the nature and extent of the works required in terms of the Order, the committee considered that the Landlord should be allowed a period of 3 months to complete the work. The decision of the committee was unanimous.

Right of Appeal

14. 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 of the Act

15. 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.

P Di Emidio

Signed Date 14 February 2014
Chairman