



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

prhp Ref: prhp/RP/13/0097

Re : Property at Flat 4, 90 Dens Road, Dundee DD3 7HX ("the Property")

Title No: ANG30301

The Parties:-

Taz Properties Limited, incorporated under the Companies Acts (SC260183) and having its Registered Office at 12 Ferndale Drive, Broughty Ferry, Dundee (represented by its agent Baker Bradley Property Management, 211a Albert Street, Dundee DD4 6QA) ("the Landlord")

Alexander Middleton, residing sometime at Flat 4, 90 Dens Road, Dundee DD3 7HX (represented by his agent Peter Kinghorn, Dundee North Law Centre, 101 Whitfield Drive, Dundee DD4 0DX) ("the Tenant")

NOTICE TO TAZ PROPERTIES LIMITED ("the Landlord")

Whereas in terms of its decision dated 16 April 2014, 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 and in particular that the landlord has failed to ensure that the installations in the Property for the supply of water, gas and electricity and for sanitation, space heating and heating water are in a reasonable state of repair and in proper working order; the Private Rented Housing Committee now requires the landlord to carry out such work as is necessary for the purposes of ensuring that the house 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 to instruct a suitably qualified electrical contractor to carry out such works as are necessary to bring up to a satisfactory standard all the items listed under the Section headed "F. Observations and Recommendations for Actions to be Taken" in the Domestic Electrical Installation Condition Report in respect of the Property dated 27 August 2013 and thereafter to obtain and exhibit to the Committee an updated Domestic Electrical Installation Condition Report from a suitably qualified independent electrical contractor certifying that the electrical installation in the Property is overall satisfactory

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.

In witness whereof these presents typewritten on this page are executed by George Barrie Clark solicitor, Lasswade, chairperson of the Private Rented Housing Committee at Lasswade on 16 April 2014 before this witness Valerie Elizabeth Jane Clark, 5 School Brae, Lasswade, Midlothian.

V Clark

witness

G Clark

_ chairman



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

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Re : Property at Flat 4, 90 Dens Road, Dundee DD3 7HX ("the Property")

The Parties:-

Alexander Middleton, sometime residing at Flat 4, 90 Dens Road Dundee DD3 7HX (represented by his agent, Mr Peter Kinghorn, Dundee North Law Centre, 101 Whitfield Drive, Dundee DD4 0DX ("the Tenant"))

Taz Properties Limited, incorporated under the Companies Acts and having its Registered Office at 12 Ferndale Drive, Broughty Ferry, Dundee (represented by their agent, Baker Bradley Property Management, 211a Albert Street, Dundee DD4 6QA ("the Landlord(s)"))

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) 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 Act.

Background

1. By application dated 19 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").
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 water tight and otherwise 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,
 - (c) the installations in the house for the supply of water, gas and electricity and for sanitation, space heating and heating water are in a reasonable state of repair and in proper working order, and
 - (d) the house has satisfactory provision for detecting fires and for giving warning in the event of a fire or suspected fire.
3. By letter dated 24 January 2014 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.
4. The Private Rented Housing Committee served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon both the Landlord and the Tenant.

5. Following service of the Notice of Referral the Tenant made no further written representation to the Committee other than the original application dated 19 September 2013. The Landlord (by letter dated 27 January 2014), made written representations to the Committee to the effect that the Tenant had vacated the Property and that the case should be closed. The Private Rented Housing Panel determined, however, on 12 February 2014 that the application should still be determined on public interest grounds due to the nature of the alleged repairs which raised health/safety/security concerns for any future tenants.
6. The Private Rented Housing Committee inspected the Property on the morning of 16 April 2014. Neither the Tenant nor the Landlord was present or represented during the inspection.
7. Following the inspection of the Property the Private Rented Housing Committee held a hearing at Douglas Community Centre, Balmoral Avenue, Dundee. Neither the Tenant nor the Landlord was present or represented at the hearing.
8. The Tenant, in his application, submitted a copy of a letter to the Landlord dated 21 August 2013, in which he formally requested that the Landlord should inspect and overhaul the whole electrical wiring system in the Property to ensure it is safe and fit for purpose and should provide a certificate that it is safe, should inspect and overhaul the windows to ensure they are wind and water tight and comply with the repairing standard, should replace the front door which was not fit for purpose, was draughty, did not fit the door space and was not secure, should overhaul the plumbing system in order that the bath can be fit for purpose and to ensure that the bath and toilet leaks are properly repaired and also fit for purpose and comply with the repairing standard, and to thoroughly inspect the Property with regard to pervasive dampness with a view to eradicating the dampness and to ensure that the Property meets the repairing standard.
9. The Landlord made no submissions to the Committee other than the letter of 27 January 2014, referred to in paragraph 5 above.

Summary of the issues

10. The issues to be determined were whether the Property met the repairing standard as laid down in Section 13 of the Act and whether the Landlord had complied with the duties imposed on landlords by Section 14(1)(b) of the Act.

Findings of fact

11. The Committee finds the following facts to be established:-
 - The tenancy is a Short Assured Tenancy, which has been terminated and the Tenant has vacated the Property.
 - The papers submitted in support of the Tenant's application include a Domestic Electrical Installation Condition Report dated 27 August 2013 ("the Report"), which states that the electrical system is unsatisfactory and makes 14 recommendations for actions to be taken, two of which were implemented on 27 August 2013.
 - There is no evidence of further works having been done following the Report, but a hard-wired smoke detector has been fitted in the hallway of the Property. There is no fixed cooker installation in the Property, the sole means of cooking being a microwave oven.
 - There is no evidence that the windows do not meet the repairing standard.
 - The front door of the Property appears to fit properly and to be secure. It has a draught excluder fitted at the foot.
 - The bathroom appliances were tested and appear to be in working order with no evidence of back-filling at the bath or leaks to the bath, wash hand basin or toilet.
 - One entire wall and a portion of the window wall in the bedroom have been replastered, but still await redecoration. Tests with a damp meter indicated that dampness levels were within the tolerable range.

Reasons for the decision

12. The Committee was concerned that only two of the 14 recommendations in the Report appeared to have been implemented and that, as a result, the electrical system would still be classified as unsatisfactory and did not, therefore, meet the repairing standard, which requires the installations for the supply of electricity to be in a reasonable state of repair and in proper working order.

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

16. 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

17. 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 **G Clark** Date 16 April 2014
Chairperson 