



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

PRHP Ref: PRHP/RP/13/0150

Property at: Flat 2/2 9 Pitfour Street, Dundee DD2 2NU
("the property")

The Parties

Mr Darren Paton residing at Flat 2/2 9 Pitfour Street, Dundee DD2 2NU
(represented by his agent, Lindsay Watson, Dundee City Council, Dundee
House, 50 North Lindsay Street, Dundee, DD1 1NB) ("the tenant")

Geoffrey Abbott, residing at 4 Thurso Crescent, Dundee, DD2 4AY ("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) in relation to the house concerned, and taking account
of the evidence led at the hearing, 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 18 November 2013, the tenants applied to the Private
Rented Housing Panel for a determination on 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 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 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,
- (b) The fixtures, fittings and appliances provided by the landlord
under the tenancy are in a reasonable state of repair and in
proper working order,

- (c) The furnishings provided by the landlord under the tenancy are capable of being used safely for the purpose for which they are designed,
- (d) The house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.

3 By letter dated 15 April 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. The committee was made up of:

Paul Doyle	Chairperson
David Godfrey	Surveyor Member
Christine Anderson	Housing Member

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 Tenants.

5 Following service of the notice of referral, the landlord submitted a written response dated 28 April 2014. There was no response from the tenant. It became clear that the tenant removed from the property on 3 January 2014. By minute of continuation dated 11 April 2014, the Private Rented Housing Committee determined that because of the nature of the tenants' application, the application should continue to be considered by the committee notwithstanding the tenants' removal from the property.

6 The Private Rented Housing Committee inspected the property on the morning of 6 August 2014. The tenants' representative was not present. The landlord was present and provided access to the property.

7 Following the inspection of the property, the Private Rented Housing Committee held a hearing at Douglas Community Centre, Dundee, at 1pm on 6 August 2014. Neither the landlord nor the tenant were present, nor were they represented.

8 The tenant submits that the landlord has ignored his repeated pleas for repairs to be carried out to the property. The tenant complains that furnishings, fixtures and fittings are damaged and that the landlord does not have a gas safety certificate and that there is inadequate provision for smoke detection in the property.

9 The landlord claimed that the tenant has fabricated his claim, that the tenant has been a problem since the day he moved in and that the tenant has damaged the flat. The landlord is certain that he has fulfilled his duties in terms of the Housing (Scotland) Act 2006.

Summary of Issues

- 10 The issues to be determined are:
- (a) Whether 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 in terms of Section 13(1)(c) of the 2006 Act.
 - (b) Whether the fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order in terms of Section 13(1)(d) of the 2006 Act.
 - (c) Whether the house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire in terms of Section 13(1)(f) of the 2006 Act

Findings in Fact

- 11 The committee finds the following facts to be established:
- (a) On 3 June 2013, the landlord agreed to let to the tenant the property which is the subject matter of this application. A lease was entered into between the parties. The landlord's obligations contained in that lease are consistent with the landlord's duty to repair and maintain the property in terms of Sections 13 and 14 of the 2006 Act.
 - (b) The tenant removed from the property on 3 January 2014. By minute of continuation dated 11 April 2014, the president of the Private Rented Housing Panel decided to continue to refer the case to a Private Rented Housing Committee for determination.
 - (c) The property forms a second floor flatted dwelling-house, entering from a common passage and stair. The front door gives entry to a central hallway which provides entry to all of the internal rooms. The property has two bedrooms, a living room, a kitchen and a bathroom. Committee members were welcomed into the property by the landlord. There is a new tenant in the property who kindly allowed the committee to inspect the property.

- (d) Committee members were able to see for themselves that every internal door had latches and handles, and that the front bedroom door was properly fitted and sitting (correctly) on its hinges.
- (e) There is laminate flooring in the hallway, living room and kitchen in this property. The laminate flooring in the hallway is complete; however there are sections of missing laminate flooring in both the kitchen and the living room. In the kitchen, the laminate flooring has now been covered by a sheet of vinyl which does not extend all of the way to the door of the kitchen. The gap between the end of the sheet of vinyl and the door is filled with a square of carpet which prevents the kitchen door from closing properly.
- (f) In the living room, there are clearly sections of laminate flooring which have come loose. The laminate flooring is uneven & worn and requires to be replaced.
- (g) There is a surround and drainage area at the kitchen sink which extends to the rear and side walls in the kitchen. An attempt has been made to seal the join between the drainage and work surface and the walls, but an excessive amount of sealant has been used. It is rough and uneven and needs to be replaced.
- (h) This property has a narrow kitchen. It contains a cooker, hob and fitted work units. It was not possible for committee members to inspect under the worktop in the kitchen. Committee members cannot be satisfied that the electrical socket underneath the worktop is in proper working order. However, committee members are satisfied that each of the kitchen cabinets have a properly fitted door.
- (i) In the living room of this property (to the front of the building), there is a large fireplace. At inspection, committee members could see that there was no gas fire - however the landlord explained that when the tenant occupied the property, there was an old Vaxaflame gas fire. On close inspection, the surveyor member was able to find the gas supply pipe. Committee members could not be satisfied from their own inspection that the gas supply pipe has been safely capped.
- (j) The landlord told committee members during the inspection that he had contacted a gas safety engineer to be advised that a gas safety certificate was not required because there

was *"no gas in the property"*. Committee members' own inspection indicates that there is still a gas supply pipe in the property.

- (k) Committee members noted that there are loose and missing sections of laminate flooring in the kitchen and the living room. A repairing standard enforcement order is therefore necessary to have the loose and damaged laminate flooring either repaired or replaced so that the entire kitchen floor and the entire living room floor are safely covered in laminate flooring.
- (l) Committee members could see that the work surface adjacent to the sink was not properly sealed, it is ridged and dirty. Committee members decided that a repairing standards enforcement order is necessary to ensure that the existing seal is removed and properly replaced.
- (m) The greatest concern to committee members relates to the supply of gas to this property. On the landlord's own evidence, throughout the tenancy, there was a Voraflame gas fire which is no longer there. Committee members therefore make a repairing standards enforcement order ordaining the landlord to replace the gas fire and produce an up to date gas safety certificate.
- (n) The committee members were concerned about the state of the electrical circuit serving the property. The mains box was quite clearly of some vintage. Committee members noted the nature of some of the wiring. Committee members therefore make a repairing standards enforcement order requiring the landlord to provide an electrical installation condition report dated after today's date.
- (o) The tenant complained that the smoke detector in the property did not work. Committee members were able to see that a smoke detector is fitted in the hall. It is wired into the mains supply. The landlord tested the smoke detector in the presence of committee members and the smoke detector activated properly.

Reasons for Decision

12 (a) The inspection of this property took place during the morning of 6 August 2014. The tenant had vacated the property on 3 January 2014 and so was not present. The landlord was present, as was the new tenant and his family. The

landlord and the new tenant allowed committee members into the property to inspect the property.

(b) The tenant complains that the internal doors do not have latches and handles. Committee members inspected the internal doors to find latches and handles on each of the doors. The tenant complains that the bedroom door needs to be re-hung. The committee members noted that the bedroom door was properly hung on its hinges.

(c) There is laminate flooring in the hall, kitchen and living room of this property. Committee members were able to see that the laminate flooring in the hallway is intact. However, there is a large section extending to the door of the kitchen where the laminate flooring has been lifted. A square of carpet fills that area and that square of carpet prevents the kitchen door from closing. In the living room, committee members noted that the laminate flooring was worn, loose and raised in parts. The current tenant in the property demonstrated an ability to simply lift sections of the floor with his fingers and without any effort. It is clear that laminate flooring throughout the property existed when the tenant was in the property. The committee therefore make a repairing standard enforcement order ordaining the landlord to repair, refit and replace laminate flooring in the kitchen and the living room of this property.

(d) Committee members inspected the kitchen in the property. The kitchen sink is adjacent to the window to the rear of the property. It is surrounded by a drainage area and work surface. The work surface abuts the rear and side interior walls of the kitchen. It is clear that an attempt has been made to seal the small gap between the work surface and the walls but an excess of sealant has been used - so that it is rough, raised and dirty. It is not a proper seal. Committee members therefore make a repairing standard enforcement order, ordaining the landlord to remove that seal and replace it with an adequate, waterproof sealant.

(e) The tenant complained that the smoke detector in the property did not work. Committee members could see the smoke detector in the property, and could see that it is wired into the mains supply. The landlord demonstrated that the smoke detector activated properly. However, committee members were concerned about the age and condition of the wiring leading from the smoke detector to the fuse box in this property.

(f) Committee members were not able to inspect the area below a work surface (in the kitchen) where the tenant claims that an electric socket is hanging from the wall with exposed live wires. The landlord insisted that that socket had been repaired. In the circumstances and because committee members cannot be satisfied that the electrical installations in this property are safe, the committee make a repairing standard enforcement order ordaining the landlord to produce and electrical installation condition report, dated after today's date.

(g) The tenant complained that a kitchen cabinet door is missing. All of the kitchen cabinets have doors at the date of inspection

(h) The landlord told committee members that a Varama gas fire had been in the living room when the tenant occupied the property, but had been removed. Because the gas fire has been removed, the landlord takes the view that there are no gas installations in the property, so that no gas safety certificate is required. The committee members consider the terms of the Gas Safety (Installation and Use) Regulations 1998. The landlord is wrong. Even though the gas fire has been removed, there is still a gas supply pipe which is clearly evident to committee members. A gas safety certificate is required.

(i) In any event, the Varama gas fire was an appliance provided by the landlord under the tenancy. Removal of the gas fire is not sufficient. It is replacement of the gas fire which is required. The committee therefore make a repairing standard enforcement order ordaining the landlord to replace the gas fire in the living room, and thereafter to obtain a gas safety certificate dated after today's date.

(i) A hearing took place in this case at 1pm on 6 August 2014 at Douglas Community Centre. No parties attended the hearing. Committee members therefore discussed their observations and came to the conclusion that the landlord has failed to meet his obligations in terms of Section 14(1)(b) of the 2006 Act and a repairing standard enforcement order is necessary.

(j) The committee therefore resolve to make a repairing standard enforcement order requiring the landlord to

(i) Repair, refit and replace laminate flooring in the kitchen and the living room of this property

(ii) Remove the seal between the work-surface and the kitchen wall and replace it with an adequate, waterproof sealant.

(iii) Produce a satisfactory electrical installation condition report, dated after today's date.

(iv) Replace the gas fire in the living room, and thereafter to obtain a gas safety certificate dated after today's date

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.

Paul Doyle

Signed.
Chairperson

... Date... 20/08/2014



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

PRHP Ref: PRHP/RP/13/0150

Property at: Flat 2/2 9 Pitfour Street, Dundee
("the property")

The Parties

Mr Darren Paton residing at Flat 2/2 9 Pitfour Street, Dundee DD2 2NU
(represented by his agent, Lindsay Watson, Dundee City Council, Dundee House, 50
North Lindsay Street, Dundee, DD1 1NB) ("the tenant")

And

Geoffrey Abbott, residing at 4 Thurso Crescent, Dundee, DD2 4AY ("the landlord")

NOTICE TO Geoffrey Abbott, residing at 4 Thurso Crescent, Dundee, DD2 4AY
("the Landlord")

Whereas in terms of their decision dated 20th August 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

- (a) 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 in terms of Section 13(1)(c) of the 2006 Act.
- (b) The fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order in terms of Section 13(1)(d) of the 2006 Act.

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:-

- (i) Repair, refit and replace laminate flooring in the kitchen and the living room of this property
- (ii) Remove the seal between the work-surface and the kitchen wall and replace it with an adequate, waterproof sealant.

(iii) Produce a satisfactory electrical installation condition report, dated after today's date.

(iv) Replace the gas fire in the living room, and thereafter to obtain a gas safety certificate dated after today's date

The Private Rented Housing Committee order that the works specified in this Order must be carried out and completed within the period of 28 days 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 type written on this and the preceding page(s) are executed by Paul Doyle, solicitor, 24 Haddington Place, Edinburgh, chairperson of the Private Rented Housing Committee at Edinburgh on 20th August 2014 before this witness:-

Paul Doyle

chairman

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Kirsten Boettcher
Secretary
24 Haddington Place
Edinburgh
