

## **Repairing Standard Enforcement Order**

**Ordered by the Private Rented Housing Committee**

**Case reference number : PRHP/RP/13/0176**

**Re:- Property at Oakdene, 4 Whitelees Road, Lanark, ML11 7LD, being the subjects registered in the Land Register of Scotland under Title Number LAN86916 ("the property")**

**The Parties:-**

**Mr Alan Milton Hutton, residing at Oakdene, 4 Whitelees Road, Lanark, ML11 7LD ("the tenant")**

**and**

**Mr Christopher Mark May, residing at 7 Highfield, Livingston Village, Livingston ("the landlords")**

### **Notice to Mr Christopher Mark May**

Whereas in terms of their decision dated 22 April 2014 the Private Rented Housing Committee determined that the landlord had failed to comply with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 and in particular the landlord had failed to ensure that:-

- (a) The house is wind and watertight and in all respects reasonably fit for human habitation (Section 13 (1) (a)).
- (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 (Section 13 (1) (b)).

The Private Rented Housing Committee now requires the landlord to carry out such work as is necessary for the purpose of ensuring that the house concerned meets the repairing standard, and that any damage caused by the carrying out of the works in terms of the Order is made good.

In particular the Private Rented Housing Committee requires the landlords to carry out the following work

- a) Carry out such works as are necessary to repair the wall behind the units in the kitchen so that the property is wind and watertight;
- b) Obtain a report from a suitably qualified builder/plumber to identify any works which may be required to ensure that the open fire within the dining room of the property can be used in a safe manner, and to thereafter carry out such works which are identified in that report;
- c) Take such actions as are necessary to install a cover plate on the skirting board in the second bedroom of the property at the point where electrical wiring is visible;
- d) Make good the plasterwork within the box room of the property which has been damaged by previous water ingress and repair the two holes in the plasterwork to the walls in this room;
- e) Carry out such works as are necessary to the rooflight which is situated within the upstairs cupboard of the property so that the rooflight can be closed securely and so that it is wind and watertight; and
- f) Carry out such works as are necessary to ensure that the front door of the property is wind and watertight.

The Private Rented Housing Committee orders that the works specified in this order must be carried out within 4 weeks of the date of this Order.

A landlord or tenant aggrieved by the decision of the Committee may appeal to the Sheriff by summary application within 21 days of being notified of that decision. The appropriate respondent in such appeal proceedings is the other party to the proceedings and not the PRHP or the Committee which made the decision.

Where such an appeal is made the effect of the decision or of the order is suspended until the appeal is abandoned or finally determined. Where the appeal is abandoned or finally determined by confirming the decision, the decision and the order are to be treated as having effect from the day on which the appeal is abandoned or so determined.

<sup>in</sup>  
**A Cowan**

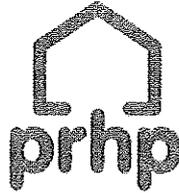
Signed .....  
Andrew Cowan, Chairperson

Date 22/4/14 .....

**L McManus**

.....Witness

Laura McManus, Secretary, 7 West George Street, Glasgow, G2 1BA



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

Ref: PRHP/RP/13/0176

Re property at: Oakdene, 4 Whitelees Road, Lanark, ML11 7LD, being the subjects registered in the Land Register of Scotland under Title Number LAN86916 ("the Property")

The Parties:-

Mr Alan Milton Hutton, residing at Oakdene, 4 Whitelees Road, Lanark, ML11 7LD ("the Tenant")

And

Mr Christopher Mark May, residing at 7 Highfield, Livingston Village, Livingston ("the Landlord")

Decision

The Committee, having made such enquiries as it saw fit for the purpose of determining whether the Landlord has complied with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 ("the Act") in relation to the property concerned 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.

The Committee consisted of:-

Mr Andrew Cowan	-	Chairperson
Mr Andrew Taylor	-	Surveyor member
Ms Mary Lyden	-	Housing member

**Background**

1. By application dated 1 December 2013, the Tenant applied to the Private Rented Housing Panel for a determination as to whether the Landlord had failed to comply with the duties imposed by Section 14 (1)(b) of 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 property meets the repairing standard.

3. The Tenant annexed to his application a list of issues which the Tenant believed the Landlord required to carry out in order to bring the property up to the repairing standard. A summary of the **alleged** breaches of the repairing standard are:-

**Within the kitchen of the property**

- (a) the back door is not wind and watertight;
- (b) there is a damp patch on the plaster at the junction of the ceiling within the kitchen at the gable wall;
- (c) there is some bad finishing around pipe boxing behind some of the wall units in the kitchen and draughts emanate from a hole in the lathe and plaster at that site;
- (d) there are cracks and movement in the concrete floor;
- (e) the pointing and finishings at the window is in need of maintenance and there are draughts at the window;
- (f) the mini plastic trunking (containing the surface wire to additional sockets which have been installed in the kitchen) is unsightly;

**Dining room**

- (g) the pointing and finishings at the windows are in need of maintenance and there are accordingly draughts at the windows;
- (h) there is a poor finishings to the walls following removal of pipes to the back boiler;
- (i) the Tenant has concerns about the safety and integrity of the fireplace as the firebricks are crumbling and rendering is missing;

**Living room**

- (j) the pointing and finishings at the windows are in need of maintenance and there are accordingly draughts at the windows;
- (k) there is plaster cracking to the walls;

**Upstairs back bedroom**

- (l) there are cracks and holes in the wooden flooring;
- (m) the Tenant is concerned about the opening arrangements of the newly installed window within this room and he does not believe it provides an adequate fire escape;
- (n) there is plaster cracking to the walls;

**Within the second bed room**

- (o) there is a hole in the skirting where a socket has been moved following recent electrical works and there are exposed electrical cables;

#### **Box room**

- (p) There is stained plaster work at the ceiling following a recent leak in the roof.

#### **Upstairs Hall way**

- (q) There has been recent water ingress from the roof onto a glazed panel below the roof light;

#### **Upstairs cupboard**

- (r) the cast iron roof light/hatch does not lock correctly as, when it is in the locked position, it remains slightly open rendering it susceptible to water ingress;

#### **The front door of the property**

- (s) the front door of the property is not wind and watertight;

#### **External works required**

- (t) there is a loose fresh air inlet grill at ground level.

4. The Private Rented Housing Committee served notice of referral dated 22 January 2014 under Section 22 (1) of the Act on both the Landlord and the Tenant.
5. Both the Landlord and the Tenant were advised that the Committee intended to inspect the property on the morning of 25 March 2014 and to thereafter hold a hearing as to the merits of the application, on the same date.
6. The Committee proceeded with the inspection and the hearing on 25 March 2014. The hearing and inspection were attended by both the Tenant's wife (acting as the "Tenant's Representative") and the Landlord.
7. At the hearing the Landlord was accompanied by Mr Jim Aitchison, Architect

#### **The Inspection**

8. At the inspection the Committee noted the following points:-

##### **Within the kitchen of the property**

- (a) the back door to the property is well maintained with a reasonably new draft excluder fitted. The threshold is of good construction with a hard standing to the exterior sloping away from the back door.
- (b) the Committee noted that there was evidence of previous water ingress at the site of a damp patch on the plaster of the kitchen ceiling at the junction with the gable wall. The Committee noted that extensive works had been carried out to the roof of the property at this juncture;

- (c) the Committee noted that there were draughts detectable from behind the wall unit within the kitchen ;
- (d) the Committee noted that there were cracks in the kitchen concrete floor. The cracks appeared to be consistent with the movement/expansion/contraction in a building of this type and age;
- (e) the Committee noted that there were replacement windows throughout the property. All the windows appeared to have been well fitted and there were no identifiable issues in relation to the pointing to the windows. The Committee noted that the windows, their timber facings and linings were fitted as well as could be expected in a property of this type and nature;
- (f) the Committee noted that mini plastic trunking had been fitted to electrical wiring which supplied new electrical points which had recently been fitted within the kitchen. The Committee further noted that this trunking appeared to be appropriate given that no other method of leading the wiring to the electrical points could be made without major destruction to the plaster work;

#### **Dining room**

- (g) the Committee noted that the windows appeared to have been well fitted and there were no identifiable issues in relation to the pointing to the windows
- (h) the Committee noted that there was some decoration works required to the walls following removal of pipes to the back boiler;
- (i) the Committee inspected the fireplace within the dining room of the property. Some of the bricks within the fireplace appeared to be loose and there was some minor cracking;

#### **Living room**

- (j) the Committee noted that the windows appeared to have been well fitted and there were no identifiable issues in relation to the pointing to the windows
- (k) the Committee noted cracking of a minor nature to the plaster on the walls within this room. This appeared to be of a minor nature consistent with a building of this age.

#### **Upstairs back bedroom**

- (l) the Committee noted minor cracking and holes on the timber flooring of the back bedroom to the property. The Committee noted that this appeared to be of a minor nature consistent with a building of this age.
- (m) the Committee noted that a new window had been installed in the back bedroom and it was capable of being opened and closed to allow escape in the event of fire;
- (n) the Committee noted that there was minor cracking to the plaster on the walls of this bedroom. This cracking was consistent with a building of this age;

#### **Within the second bed room**

- (o) the Committee noted that there was a hole within the skirting board within the second bed room of the property where a socket had been removed following recent electrical work;

#### **Box room**

- (p) the Committee noted that there was evidence of previous water ingress in the box room of the property. The area was tested by a moisture metre which indicated the area was now dry although some minor works would be required to make good the plaster work now that the leak appeared to have been repaired.

Within the box room, the Committee noted there were holes in the lathe and plaster at two specific points within the room.

#### **Upstairs Hallway**

- (q) the Committee noted that there was evidence of historic water ingress through the roof light above the glazed panel within the hall. The Committee further noted that extensive works have been carried out by the Landlord to the roof over recent weeks and that there is no further evidence of recent water ingress in this respect.

#### **Upstairs cupboard**

- (r) the Committee noted that the cast iron roof light/hatch within the upstairs cupboard of the property did not lock properly and was therefore susceptible to water ingress;

#### **the front door of the property**

- (s) the Committee noted that the draft proofing to the front door of the property was loose and moved when the doors opened and closed;

#### **External works required**

- (t) the Committee noted that there was a loose fresh air inlet grill at ground level of the property although the matter was of a trivial nature.

#### **The Hearing**

9. At the hearing the Committee heard evidence from the Tenant's Representative together with the Landlord and the Architect who accompanied the Landlord. The Committee went through each of the Tenant's complaints and reported on their own observations following the inspection earlier in the day. The Committee noted that in his original complaint the Tenant had complained that there were problems with the electrics in the property and with the bath and plumbing within the bathroom of the property. The Tenant's Representative confirmed that the Tenant was no longer insisting on these parts of his complaint as these matters had been attended to by the Landlord.
10. The Landlord explained that he had previously engaged an agent to deal with all matters in connection with the lease of the property. He had been personally unaware of the extent of works required to the property until the end of January 2014. At that time, he inspected the property along with his Architect and has instructed and completed extensive works to the electrics within the property. A roofing contractor had been engaged and they had carried out

extensive works to the guttering and roofing of the property, to take such works and carry out such works as were necessary to ensure that the property was wind and watertight.

11. A number of new windows have been installed within the property. The Landlord has also installed additional radiators within the property.
12. The Tenant's Representative agreed that the list of items which the Committee had inspected and which are referred to in this decision were the summary of the Tenant's complaint. The Tenant's Representative had been able to show the areas of complaint to the Committee in their inspection.
13. With reference to the fireplace within the dining room of the property, the Tenant's Representative explained that there was a back boiler behind that fireplace. The Landlord had now installed radiators and accordingly the pipework leading from the back boiler had been removed. The tank itself still remained behind the fireplace. The Tenant was concerned that he was unable to use the fireplace as he was entitled to do, as the brickwork within the fireplace was loose and when the fire was lit, water remaining in the boiler in the tank behind the fireplace would heat and the tank would move as a result, causing further disturbance to the bricks within the fireplace. The Tenant was concerned that the fireplace was accordingly not safe to use.
14. The Committee then considered each of the elements of the tenant's complaints and heard from both the Ten Tenant's Representative and the Landlord in relation to each of those aspects of complaint.

#### **Decision**

15. Having inspected the property and having considered the evidence heard at the hearing:-

##### **Within the kitchen of the property**

- (a) The Committee are satisfied that the back door of the property is wind and watertight. The Tenant did complain that occasionally water came under the back door but the Committee had noted that there was a drop between the back door and the exterior hard standing. In all the circumstances the Committee were satisfied that the door was wind and watertight and met the repairing standard;
- (b) The Committee noted that there had been previous water ingress on the kitchen ceiling at its junction with the gable wall. The Committee further noted that the Landlord had recently carried out extensive works to the roof of the property at this site. The Committee is of the view that any continuing evidence of dampness related to the previous water ingress and that it was likely that the recent repairs to the roof had resolved this issue. The Committee were therefore not satisfied that there was any continuing failure to meet the repairing standard in connection with this matter;
- (c) The Committee noted that the Tenant complained of draughts emanating from a hole in the latent plaster behind the wall units within the kitchen. The Committee themselves had felt these draughts. Given that draughts were capable of emanating from this site the property was not wind and watertight at this point and accordingly does not meet the repairing standard in respect of this matter;
- (d) The Committee noted that there were cracks in the concrete floor in the kitchen. These cracks were of minor nature and the Committee was of the view that they were consistent with movement, expansion and contraction in a building of this type and age of property. The Committee did not consider that there was a failure of the repairing standard in relation to this matter;

- (e) The Committee had inspected the windows at the property which had recently been installed. The Committee were satisfied that the windows were appropriately installed, they were not causing significant draughts and there was no failure of the repairing standard in this connection;
- (f) The Committee noted that the Tenant was unhappy with the plastic mini trunking which had been installed to carry the wiring to additional socket outlets which the Landlord had installed in the property. The Committee found this point to be completely trivial and did not consider that there was a failure of the repairing standard in respect of this matter;

#### **Dining room**

- (g) The Committee were satisfied that the windows were appropriately installed, they were not causing significant draughts and there was no failure of the repairing standard in this connection
- (h) The Committee noted that there was decoration required where the Landlord had removed the pipework to the back boiler of the property. This, however, was a decoration issue and was not a failure of the repairing standard;
- (i) The Committee noted the Tenant's concerns about the safety and integrity of the fireplace. The Committee had noted some loose brickwork within the fireplace and given the concerns about safety, the Committee considered that it would be appropriate for the Landlord to obtain a report from a suitably qualified builder/plumber who could confirm whether or not the fireplace was safe to use. In the event that such a report identified that further works were required, then the Landlord would require to carry out such works as were necessary to ensure that the fireplace was safe to use and that it accordingly met the repairing standard;

#### **Living room**

- (j) The Committee were satisfied that the windows were appropriately installed, they were not causing significant draughts and there was no failure of the repairing standard in this connection
- (k) the Committee noted that there was minor cracking to the plasterwork on the wall within the living room. There were no wall coverings within this room of the property. The Tenant is liable for the decoration of the property. The cracking to the plasterwork which the Committee had identified was of a minor nature consistent with a building of this age. The Committee did not consider there was a failure of the repairing standard in this connection;

#### **Upstairs back bedroom**

- (l) The flooring within the bedroom of the property meets the repairing standard. Whilst there are some cracks within the timber flooring, the Committee were of the view that this was perhaps attributable to the newly installed central heating of the property;
- (m) The Committee were satisfied that the windows were appropriately installed, they were not causing significant draughts and there was no failure of the repairing standard in this connection. The committee were further satisfied that the window installed in this room of the property could operate as a suitable fire escape.
- (n) The Committee noted that there was minor cracking to the plasterwork on the wall within the living room. There were no wall coverings within this room of the property. The

Tenant is liable for the decoration of the property. The cracking to the plasterwork which the Committee had identified was of a minor nature consistent with a building of this age. The Committee did not consider there was a failure of the repairing standard in this connection;

#### **Within the second bed room**

- (o) The Committee noted that there was a hole in the skirting where a socket had been removed following recent electrical works. There were exposed electrical cables. This was a failure of the repairing standard as there is potential safety issue and a cover plate is required to cover the area where the old socket had been removed;

#### **Box room**

- (p) The Committee noted that there was evidence of previous water ingress. That matter had, however, been attended to by the Landlord in connection with recent roof works and there was no on-going failure of the repairing standard in that respect. The Landlord should, however, make good the plaster work which had been damaged by the recent water ingress;

The Committee noted that there were two holes within the latent plaster within this room. These were part of the fabric of the building and should be repaired by the Landlord to ensure it meets the repairing standard;

#### **Upstairs Hall**

- (q) The Committee noted that whilst there was evidence of previous water ingress to the roof light above the glazed panel in the upstairs hall of the property, there was no evidence that this was a continuing problem. The Landlord had recently carried out extensive works to the roof of the property and there was no evidence of a continued failure to meet the repairing standard in this connection.

#### **Upstairs cupboard**

- (r) the Committee accepted the Tenant's complaint that the roof light within the upstairs cupboard of the hall of the property allows water ingress. The roof light and its locking mechanism requires adjustment so that the roof light can be closed securely and so that it is wind and watertight;

#### **the front door of the property**

- (s) The front door of the property is not wind and watertight. Draft proofing has become loose and requires attention. The front door of the property does not accordingly meet the repairing standard

#### **External works required**

- (t) The Committee noted the Tenant's complaint regarding the loose fresh air inlet grill on the external elevation of the property. Whilst the grill was loose this is not considered to be a failure of the repairing standard and was of a trivial nature.

**Decision**

- 16. The Committee accordingly determined that the Landlord had failed to comply with the duty imposed by Section 14 (1) (b) of the Act. The Committee proceeded to make a Repairing Standard Enforcement Order as required by Section 24.1 of the Act.
- 17. The decision of the Committee was unanimous.

**Right of Appeal**

- 18. **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**

- 19. 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.

<sup>11</sup>  
**A Cowan**

Signed ..... Date 22/4/14  
Andrew Cowan , Chairperson

**L McManus**

.....Witness

Laura McManus, Secretary, 7 West George Street, Glasgow, G2 1BA