



REPAIRING STANDARD ENFORCEMENT ORDER
Ordered by the Private Rented Housing Committee

RE: Property at 71 Rowan Road, Inverness IV3 5RL as more particularly described in Land Certificate Title Number INV18953 (hereinafter referred to as "the House")

The Parties:

Carlos Filipe De Carvalho, 71 Rowan Road, Inverness IV3 5RL (hereinafter "the Tenant")

Frances June Center, 20 Cairngorm Avenue, Aviemore PH22 1RY and David John Cameron, Druminloch, Feshiebridge, by Kinraig, Invernessshire PH21 1NQ, together trading as Cairngorm Homes (hereinafter "the Landlord")

PRHP REFERENCE PRHP/RP/13/0193

NOTICE TO FRANCES JUNE CENTER and DAVID JOHN CAMERON

WHEREAS in terms of their decision dated 9 May 2014 the 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 House meets the repairing standard in that:

*"(a) the house is wind and water tight 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,
(d) any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order..."*

The Committee now requires the landlord to carry out such work as is necessary for the purposes of ensuring that the House 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 Committee requires the Landlord:

- 1 To remove all mould in the House and redecorate the bathroom, kitchen, the hall and the bedroom.

- 2 To provide effective mechanical ventilation in the bathroom and the kitchen.
- 3 To ensure that all gutters and downpipes are in a reasonable state of repair and functioning properly.

The Committee order that the works specified in this Order must be carried out and completed within 42 days from the date of service of this Notice.

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 the decision.

Where such an appeal is made, the effect of the decision and 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 and the preceding page are signed by John Miller McHugh, Chairperson of the Private Rented Housing Committee at Edinburgh on the Ninth day of May Two Thousand and Fourteen in the presence of the undernoted witness:

J McHugh

Chairperson

G McHugh

Witness *GILLIAN MCHUGH*

Witness Address *c/o 31 PONTON ST, EDINBURGH*



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**

In connection with

Property at 71 Rowan Road, Inverness IV3 5RL (hereinafter referred to as “the House”)

Carlos Filipe De Carvalho, 71 Rowan Road, Inverness IV3 5RL (hereinafter referred to as “the Tenant”)

Frances June Center, 20 Cairngorm Avenue, Aviemore PH22 1RY and David John Cameron, Druminloch, Feshiebridge, by Kincaig, Invernessshire PH21 1NQ together trading as Cairngorm Homes (hereinafter referred to as “the Landlord”)

PRHP REFERENCE PRHP/RP/13/0193

DECISION

The Committee, having made such enquiries as are fit 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 (hereinafter “the Act”) in relation to the House, taking account of the evidence led by the Tenant and the Landlord at the hearing and taking account of the written documentation attached to the application and submitted by the parties, determined that the Landlord had failed to comply with the duty imposed by section 14(1)(b) of the Act.

Background

By application dated 30 December 2013 (hereinafter referred to as “the Application”) the Tenant applied to the Private Rented Housing Panel (hereinafter “the PRHP”) for a determination of whether the Landlord had failed to comply with the duties imposed by section 14(1)(b) of the Act.

The Application stated that the Tenant considered that the Landlord had failed to comply with the duty to ensure that the House meets the repairing standard and in particular that the Landlord had failed to ensure compliance with the following paragraphs of section 13(1) of the Act:

*“(a) the house is wind and water tight 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,
(d) any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order...”*

The Tenant complained of the following defects in the House: a leaking roof; blocked rainwater goods; growth of mould; insufficient ventilation; inadequate heating and an absence of double glazing.

By letter of 6 February 2014, the President of the PRHP intimated a decision to refer the application under section 23(1) of the Act to a Private Rented Housing Committee (hereinafter referred to as “the Committee”).

The Committee comprised the following members:

John McHugh, Chairperson
Michael Scott, Housing Member
Angus Anderson, Surveyor Member

The Committee served Notice of Referral in terms of Paragraph 1 of Schedule 2 to the Act upon the Landlord and the Tenant.

The Committee inspected the House on 6 May 2014. The Tenant and his wife were present as was a Portuguese interpreter. The Landlord indicated that they did not wish to be present.

Following the inspection, the Committee held a hearing at James Cameron Community Centre, Limetree Avenue, Inverness. In attendance were the Tenant and his wife, Jelena Sinakova De Carvalho. In attendance on behalf of the Landlord were Frances Center and Liz MacRae, the accountant employed by the Landlord.

Submissions at the Hearing

The Committee considered the submissions made by both the Landlord and the Tenant. The Committee also considered the written evidence submitted by the parties including invoices for works carried out and a document produced by a surveyor on behalf of the Landlord which reported on the condition of the property. As neither the Committee nor the Tenant had seen the invoices nor the report previously, the Tenant was given an opportunity to consider these.

The Tenant complained that the Landlord had shown little interest in addressing complaints prior to the involvement of the PRHP. The Landlord had recently installed extractor fans in the bathroom and kitchen. The Tenant reported that the bathroom fan was ineffective. The Tenant reported that water would condense in both the extractor fans and drip back down. Condensation was present in the bathroom, the kitchen and the bedroom. It would form on the windows and water would accumulate there. The Tenant complained that water may be entering the bedroom from the rear wall and that the drain underneath the downpipe or the downpipe itself may be blocked. The Tenant finds the electric heating to be expensive, noisy and to smell so prefers to use a portable electric heater. The Tenant dries clothes indoors and complained that the Landlord had refused a request to provide a tumble dryer.

The Landlord maintains that it has attempted to address various complaints and has carried out works including the fitting of extractor fans. New double glazing and a new rear door are on order. The Landlord accepts that mould is present in the house but attributes this to building design and condensation from the lifestyle of the Tenant. The Landlord claimed that a previous tenant had not experienced difficulties with condensation. The Landlord reported that the Tenant had been difficult about providing access to its tradesmen, something which the Tenant hotly disputed.

Summary of the Issues

The issue to be determined is whether the House meets the repairing standard as laid down in section 13 of the Act and whether the Landlord has complied with the duty imposed by section 14(1)(b).

Findings in Fact

The Committee confined their inspection to the items of complaint detailed within the Tenant's Application.

The Committee made the following findings in fact:

The House is a semi-detached bungalow.

The Landlord and the Tenant entered into a Tenancy agreement in respect of the House on 30 April 2010.

Frances June Center and David John Cameron are the registered owners of the House.

The Landlord was recorded on the Lease as "Cairngorm Homes" which is a trading name of Ms Center and Mr Cameron.

The Tenant took possession of the House from 30 April 2010 and has remained in occupation since.

The provisions of Chapter 4 of Part I of the Act apply to the tenancy.

The Tenant notified the Landlord of the defects in the house which are now the subject of the Application by letter addressed to the Landlord dated 8 January 2014.

The inspection on 6 May 2014 revealed:

It had been raining on the morning of the inspection.

The lower section of the downpipe at the rear of the house was split.

There was a leak in a gutter joint at the front of the building.

In the kitchen, mould was evident particularly on the external wall.

Extensive mould was present in the bathroom.

Mould was present in the hall.

Extractor fans were fitted in both the bathroom and the kitchen.

The bathroom extractor fan does not appear to work effectively.

Mould was present in the bedroom and was particularly concentrated on the rear external wall. Wallpaper was peeling.

Single glazing was in place throughout the property. The windows open as designed.

Cavity wall insulation appears to have been installed.

There is electric heating.

The Tenant uses a portable halogen heater.

The Tenant sometimes dries clothes inside.

In the loft, the duct from the kitchen extractor fan is not insulated nor connected to the outside. The duct from the bathroom extractor fan is not insulated. The roof void is well insulated at ceiling level (approximately 200mm thick).

There was no evidence of water leaking into the property from the roof.

A mains powered smoke detector is installed in the hall.

Reasons for the Decision

Condensation

There is extensive mould present in the House. There is no evidence of the ingress of water from outside. The Committee consider that the problems being experienced by the Tenant are as a result of condensation arising from a combination of factors. These are: the lifestyle of the Tenant (including the use of a portable electric heater and the drying of clothes inside); the design of the House including the presence of single glazing; the internal plaster finish being applied directly onto masonry (plastered on the hard); and the failure of the arrangements for mechanical extraction of air in the kitchen and the bathroom. The effects of the mould are such that the bathroom, the hall, the kitchen and the bedroom are in need of redecoration.

Other matters

The rear downpipe has split. A joint on the guttering at the front of the House requires repair.

The Repairing Standard

The Committee consider that the defects in the extractor fans, the presence of mould and the condition of the downpipe and guttering constitute breaches of the repairing standard.

Repairing Standard Enforcement Order

Having decided to make a Repairing Standard Enforcement Order, the Committee considered the length of time which should be provided for compliance.

The Committee elected to impose a period of 42 days having regard to the nature of the defects identified.

Decision

The Committee, considering the terms of section 13(3) of the Act, 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(2) of the Act.

The decision of the Committee was unanimous.

Right of Appeal

Section 64 of the Act provides a right of appeal to a landlord or tenant aggrieved by a decision of a private rented housing committee. An appeal may be made to the Sheriff within 21 days of the Landlord or Tenant being informed of the decision.

Where such an appeal is made, the effect of the decision and 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.

J McHugh

John M McHugh
Chairperson

Date: 9 May 2014