



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

prhp Ref: PRHP/DD3/159/12

Re: Property at 1 Beaully Square, Dundee, DD3 0DL ("the Property")

Title No: ANG7374

The Parties:-

STOBMUIR ENTERPRISES LIMITED, 15 Albert Street, Dundee, DD4 6NS ("the Landlord")

LAURA DEASLEY residing at 1 Beaully Square, Dundee, DD3 0DL ("the Tenant")

NOTICE TO STOBMUIR ENTERPRISES LIMITED ("the Landlord")

Whereas in terms of their decision dated 19 December 2012, 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 Property is wind and watertight and in all other respects reasonably fit for human habitation;
- (b) The structure of and exterior of the Property (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order;
- (c) 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;
- (d) 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 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:-

- (a) To repair or replace the front door and the surrounding frame to ensure that the door is capable of being opened and closed smoothly, is properly wind and watertight and otherwise meets the repairing standard.
- (b) To install air vents to the replacement windows recently installed by the Landlord to ensure compliance with the repairing standard.
- (c) To carry out such works as are necessary to the steps and access pathway leading from the front gate to the front door to ensure it is in a safe and useable condition and otherwise meets the repairing standard.
- (d) To produce a further gas safety certificate confirming that all items listed are marked as a "pass".

The Private Rented Housing Committee order that the works specified in this Order must be carried out and completed within the period of 6 weeks from the date of service of this Notice.

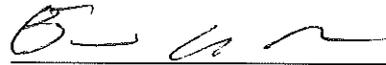
A landlord or a tenant aggrieved by the decision of the Private Rented Housing Committee may appeal to the Sheriff by summary application within 21 days of being notified of that decision.

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 type written on this and the preceding page are executed by Ewan Kenneth Miller, Solicitor, Whitehall House, 33 Yeaman Shore, Dundee, DD1 4BJ, Chairperson of the Private Rented Housing Committee at Dundee on 19 December 2012 before this witness:-



witness



Chairman

Lindsay Johnston
Secretary
Thorntons Law LLP
Whitehall House
33 Yeaman Shore
Dundee
DD1 4BJ



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

prhp Ref: PRHP/DD3/159/12

Re: Property at 1 Beaully Square, Dundee, DD3 0DL ("the Property")

The Parties:-

LAURA DEASLEY residing at 1 Beaully Square, Dundee, DD3 0DL ("the Tenant")

STOBMUIR ENTERPRISES LIMITED, 15 Albert Street, Dundee, DD4 6NS ("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 by both the Landlord and the Tenant 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 28 August 2012 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 Property is wind and watertight and in all other respects reasonably fit for human habitation;
 - (b) The structure of and exterior of the Property (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order;
 - (c) 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;
 - (d) Any fixtures, fittings and appliances provided by the Landlords under the tenancy are in a reasonable state of repair and in proper working order;
 - (e) The Property has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.
3. By letter dated 22 October 2012 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 other representations to the Committee other than their original application. The Landlord made no written representations to the Committee.
6. The Private Rented Housing Committee inspected the Property on the morning of 14 December 2012. The Committee comprised Mr E K Miller, Chairman and Legal Member; Mr D Godfrey, Surveyor Member; and Mr M Scott, Housing Member. The Tenant was present during the inspection. From the Landlords, Dr El-Bakary and his son along with Mrs Taylor were all present 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 and heard from both the Tenant and their Landlord. Dr El-Bakary, his son and Mrs Taylor were again present for the Landlord. They were not represented. The Tenant was present but unrepresented. She was accompanied by her partner.
8. The Tenant confirmed that a number of the works had been carried out over the last few weeks. Her primary concern was now the front door, the vents on the windows, and the access path.
9. The Landlord submitted that he was prepared to do any works that were required to bring the Property up to the repairing standard. The Landlord stated that there had been difficulty in gaining access to do works on occasion.

Summary of the issues

10. The issues to be determined are:-
 - (a) Whether the plasterwork above the door needed repaired and whether meter wires were exposed.
 - (b) Whether the front door required to be fitted and made secure to comply with the repairing standard.
 - (c) Whether the back window over the stair needed to be overhauled/replaced.
 - (d) Whether the windows in the property were secure and otherwise met the repairing standard.
 - (e) Whether the access pathway was safe and whether it met the repairing standard.
 - (f) Whether or not there were smoke detectors within the Property compliant with the repairing standard.
 - (g) Whether the central heating system was in proper working order and otherwise met the repairing standard.

Findings of fact

11. The Committee finds the following facts to be established:-
 - i. The plasterwork above the door had been repaired and met the repairing standard. In relation to the meter wires, an electrical installation condition report had been produced in clear terms and accordingly no works were required.
 - ii. The front door did not meet the repairing standard.

- iii. The windows throughout the Property had been replaced by the Landlord recently but they did still require trickle vents to be fitted.
- iv. The access path and steps leading to it were dangerous and needed to be repaired.
- v. There were smoke detectors in working order within the Property.
- vi. The central heating system was in proper working order. A gas safety certificate had been produced, albeit that there was one minor piece of work outstanding.

Reasons for the decision

12. The Committee based its decision primarily on the inspection carried out at the Property.

The Committee noted that prior to the inspection the Landlord had repaired a hole in the plasterwork above the door. The repair that had been done was basic but did nonetheless meet the repairing standard. An electrical installation condition report had been provided which gave the electrical system within the Property a clean bill of health. Accordingly the Committee was satisfied that this aspect of the complaint had been dealt with satisfactorily.

The Committee inspected the front door at the Property. It was clear that the lock had been replaced on a number of occasions and that the frame was warped. There was evidence of water ingress. The Committee was of the view that both the door and frame needed to be repaired or replaced to ensure compliance with the repairing standard.

All the windows within the Property had been replaced with new PVC double glazed units. It was noted that no air vents had been fitted to these as required for compliance with the repairing standard. The Landlord advised that he did have the vents and was willing to fit these. The Committee was satisfied that if this was done this would ensure compliance with the repairing standard.

The Committee inspected the steps from the exterior of the Property and the access path leading to the front door. This was in very poor condition and was unsafe. The steps and path represented a significant trip hazard. The Committee was of the view that the steps and path required to be repaired to ensure compliance with the repairing standard.

The Committee noted that there were smoke detectors in the Property. The Tenant advised that this was an error on the part of the solicitor submitting the application on her behalf. The smoke detectors had been working in the Property since she moved in.

Lastly, the Committee inspected the central heating system. The Tenant advised that works had been carried out on this and it was now in proper working order and that all the radiators were working. The Landlord had produced a gas safety certificate. The Committee did note that there was one minor item marked as a "fail" on this. The Committee would require the Landlord to carry out such works as were necessary to get an amended Certificate showing everything as having passed.

A discussion took place regarding the amount of time required for the Landlord to complete the necessary works. The Committee was of the view that the works to the access path may take a little longer. Accordingly the Committee was of the view that a period of 6 weeks should be given to the Landlord. The Committee noted that both parties were keen to have the front door fixed as a matter of urgency and the Committee would encourage the Landlord to do so.

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.

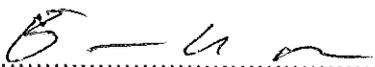
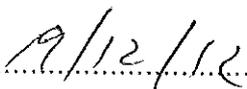
14. The Committee proceeded to make a Repairing Standard Enforcement Order as required by section 24(1).
15. The decision of the Committee was unanimous.

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  Date 

Chairperson