



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

prhp Ref: PRHP/RP/0060

Re: Property at Flat 1/1 544 Hamilton Road, Uddingston G71 7SG ("the Property")

Title No: LAN 92472

The Parties:-

Naeem Ahmed, 7 Hawksland Walk, Hamilton ML3 7NX, Parveen Akhtar Ahmed, 37 Covanburn Avenue, Hamilton, ML3 7PX, Mohammed Nazir (Deceased), c/o Stonevale Lettings Ltd, 18 Avon Street, Hamilton, ML3 7HU, Shahida Parveen Arshad, 14 Baltersan Gardens, Hamilton, ML3 7QW ; Stonevale Lettings Ltd, 18 Avon Street, Hamilton ML3 7HU ("the Landlord")

Robert Hannah, residing at 1/1 544 Hamilton Road, Uddingston G71 7SG ("the Tenant")

NOTICE TO Naeem Ahmed, Parveen Akhtar Ahmed, Mohammed Nazir (Deceased), and Shahida Parveen Ashrad ("the Landlord")

Whereas in terms of their decision dated 9 May 2016 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 ("The Act") and in particular that the Landlord has failed to ensure that the property is:-

- (a) wind and watertight 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 in and proper working order;
- (c) 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 Private Rented Housing Committee now requires the landlord to carry out such work as is necessary for the purposes of ensuring that the property 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:-

1. To instruct a suitably qualified Building Contractor to carry out the works required to eradicate all water penetration and dampness and render the property wind and watertight.
2. To repair the washing machine to restore it to proper working order or replace it with a new washing machine.

3. To investigate the cause of the slope in the floors within the property and carry out repairs to rectify this defect in the floors.

The Private Rented Housing Committee orders that the works specified in this Order must be carried out and completed within the period of twelve 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.

Please note that in terms of section 28(1) of the Act, a landlord who, without reasonable excuse, fails to comply with a RSEO commits an offence liable on summary conviction to a fine not exceeding level 3 on the standard scale. A landlord (and that includes any landlord's successor in title) also commits an offence if he or she enters into a tenancy or occupancy arrangement in relation to a house at any time during which a RSEO has effect in relation to the house. This is in terms of Section 28(5) of the Act.

In witness whereof these presents type written on this and the preceding page are executed by Josephine Bonnar, solicitor, Chairperson of the Private Rented Housing Committee at Motherwell on 9 May 2016 before this witness:-

J. BONNAR

____Chairperson

✓
____G. BONNAR

____Witness

____GERARD BONNAR____Name in full

____BUCHANAN HOUSE____Address

____S8 PORT DUNDAS ROAD____

____GLASGOW____

____SOLICITOR____Occupation



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

prhp Ref: RP/16/0060

Re : Property at Flat 1/1 544 Hamilton Road, Uddingston, G71 7SG ("the Property")

Title No: LAN 92472

The Parties:-

Robert Hannah ("the Tenant")

Naeem Ahmed 7 Hawksland Walk, Hamilton ML3 7NX, Parveen Akhtar Ahmed 37 Covanburn Avenue, Hamilton, ML3 7PX, Mohammed Nazir (Deceased) c/o Stonevale Lettings Ltd, 18 Avon Street, Hamilton, ML3 7HU, Shahida Parveen Arshad 14 Baltersan Gardens, Hamilton ML3 7QW; Stonevale Lettings Ltd 18 Avon Street, Hamilton ML3 7NX (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) of the Housing (Scotland) Act 2006 ("the Act") in relation to the property, and taking account of the evidence led by both the Landlord's agent 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.

The Committee comprised:-

Mrs Josephine Bonnar, Chairperson

Ms Carol Jones, Surveyor Member

Background

- 1. By application received on 12 February 2016 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 Landlords had failed to comply with their duty to ensure that**

the house meets the repairing standard and in particular that the Landlords had failed to ensure that:- the house is wind and watertight and in all other respects reasonably fit for human habitation; 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; any furnishings provided by the landlord under the tenancy are capable of being used safely for the purpose for which they are designed. Specifically the Tenant complained of dampness in the property, uneven floors, a leak in the toilet ceiling and a defective washing machine.

3. The Private Rented Housing Panel served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon both the Landlords and the Tenant on 15 March 2016.
4. Following service of the Notice of Referral the Landlords and Tenant made written representations to the Committee. The Tenant's representations comprised a statement that he had been served with a Notice to Quit and he attached a copy of same. The Landlord's representations comprised letters, emails and photographs relating to proposed major repair works at the property.
5. On 4 April 2016 the Committee issued a Notice of Direction to the Landlords requiring them to provide up to date addresses for all of the Landlords and to provide documentation to establish the basis upon which Shakil Ahmed had acted as Landlord of the property as he is not named on the Land Certificate nor is he the named Letting Agent. On 25 April 2016 the Letting Agent provided addresses and information regarding the owners and landlords of the property. No information or documentation regarding Shakil Ahmed was produced.
6. The Private Rented Housing Committee inspected the Property on the morning of 25 April 2016. The Tenant was present during the inspection. Neither the Letting Agent nor the Landlords were present during the inspection.
7. Following the inspection of the property the Private Rented Housing Committee held a hearing at Brandon Gate, Leechlee Road, Hamilton. The Tenant and the Letting Agent, Margaret Jamieson of Stonevale Lettings Ltd were both present and gave evidence.

The Inspection

8. At the time of the inspection the weather was dry although it had rained heavily shortly beforehand. The Committee was able to inspect the whole property. In the living room there was evidence of dampness around the bay window. Moderate to high damp metre readings were found to the right side of the bay window. Inside the recessed cupboard on the gable end wall there was significant

condensation and black mould. Low damp metre readings were detected in this cupboard. In the bedroom further evidence of dampness was identified on the gable wall and to the rear wall around the right side of the window. Moderate to high damp metre readings were detected. There was significant evidence of condensation and black mould inside the recessed cupboard in the bedroom on the gable wall. In the shower room there was evidence of dampness on the wall adjoining the common stairwell and above the window. High damp metre readings were found on the wall adjoining the common stairwell. The Tenant advised that during periods of heavy rain there was a leak from the ceiling above the toilet and window. In the kitchen the Tenant pointed out the washing machine which he said was faulty. The Committee noted the absence of a carbon monoxide detector or a heat detector in the kitchen. One battery operated smoke detector was present in the hall.

The Hearing

9. At the Hearing the Tenant gave evidence. He advised that although his tenancy started on 3 January 2013 he had not moved in to the property until 6 February. He lives at the property alone. There were no repairs issues when he first moved into the property. He had always dealt with Shakil Ahmed in relation to tenancy issues. In recent months he had also dealt with the Agents, Stonevale Lettings Ltd.
10. In response to questions by the Committee the Tenant advised that he had first noticed dampness within the property at some point during the previous year. Firstly in the shower room and very soon thereafter in the bedroom and living room. He had the gable wall in the bedroom re-plastered so that he could put up wallpaper. He had asked Shakil Ahmed to arrange it but when he failed to do so he had paid a plasterer himself. The plasterer told him that the wall was damp. Thereafter he noticed damp patches forming at the top of the newly papered gable wall. He noticed the dampness in the living room at the same time. He indicated that he contacted Shakil Ahmed in October 2015 and again in November 2015. Shakil Ahmed visited the property in November 2015. He said he thought that a tree which was growing out of the building at the top of the rear elevation was the cause of the damp and had it removed. This left a hole in the wall which has not been repaired. The dampness did not resolve. The leak in the shower room then developed and the Tenant emailed Stonevale Lettings Ltd and then contacted Shakil Ahmed to complain about same. Shakil Ahmed responded to say that he was busy as a result of recent family bereavements but would attend to matters soon. He did not do so. However, as a result of complaints from the resident of the flat underneath the property about a leak from the shower, the shower area was re-tiled and re-sealed about

provided her with any information which might assist. She was however able to confirm that the proposed extensive works referred to in the documentation was definitely going ahead. The Committee asked for clarification of the ownership of the property. She advised that Stonevale Lettings Ltd is a family owned business and the various family members associated with it also own a number of properties (including the property under discussion) which are in turn managed by the agency. Shakil Ahmed who is listed on the tenancy agreement as the landlord is not in fact one of the owners but is the brother of Naeem Ahmed who is an owner and landlord, One of the other listed owners (Mohammed Nasir) is deceased and another is in hospital. She further advised that Shakil Ahmed acts on his brother's behalf and with his authority but this is not in writing and for this reason he did not attend the hearing. The company is due to be re-organised. She was able to advise that the Notice to Quit issued to the Tenant was automatically generated by the Letting Agents computer system because of rent arrears but was not in fact a formal notice to quit.

Findings in Fact

14. The property is a traditional first floor flat situated in a three storey red sandstone tenement and located around 2 miles north-west of the centre of Uddingston in Lanarkshire. It is accessed via a common close which has a door onto the street. There is no secure entry system. The tenement is in a poor state of repair both internally and externally. The accommodation comprises a hall, living room with bay window, kitchen, and bedroom with adjoining shower room. The flat has gas central heating and UPVC windows.
15. The tenancy agreement signed by the Tenant is dated 1 February 2013 although the stipulated date of entry is 3 January 2013. The Tenant has resided at the property since 6 February 2013 and resides there alone. He has been issued with a Notice by the Letting Agent which is described as a Notice to Quit. However, the notice does not require him to vacate by a specified date. His tenancy is continuing.
16. The Tenant first notified the Landlord of repairs issues at the property in October 2015. This notification was made to Shakil Ahmed who is detailed on the tenancy agreement as the landlord and who has been the tenant's principal contact in relation to the property and tenancy issues. Most of the contact was by telephone or text message. The Tenant complained of dampness within the property, an uneven floor, a leak in the toilet ceiling and a faulty washing machine.

12 weeks ago. The Tenant also went on to explain that he had only become aware of the slope in the floor when he purchased a fish tank a few months previously and realized it couldn't sit on the living room floor because of the slope. No repair has been carried out since this issue was notified. The washing machine has been causing problems since December 2015. The Tenant stated that Shakil Ahmed sent out a repair man. The repair man said that it would be cheaper to replace the machine than repair it as there was a hairline crack in the glass, a defective seal and the machine was very old. No replacement has been provided and no repair carried out.

11. The Tenant concluded his evidence by confirming that he is aware that major structural and roofing works are planned involving the whole tenement and that a surveyor came out to see his property although he was not present during the inspection. He also advised that he has been served with a Notice to Quit since he applied to the Private Rented Housing Panel. It does not stipulate a date to vacate the property. He acknowledged that he has some rent arrears although did not fully appreciate the level of same prior to receiving the notice to quit. He is in receipt of partial housing benefit.

12. The Landlord had provided documentation in advance of the Hearing relating to proposed works to be carried out to the tenement where the property is located. The documentation included paperwork relating to the works being put out to tender and a number of photographs of defects at the property. The Agent, Margaret Jamieson confirmed that all the defects at the property would be rectified as part of the major works which are to be carried out. A factor has been appointed and all of the owners of the properties have agreed to the works. Grant applications have been approved. She was unable to specify exactly what was to be carried out but indicated that she thought there was to be a new roof, structural work, eradication of rot and damp and possibly a door entry system. The work was going to start in June 2016 and she thought might last about 12 weeks. Some of the residents (those on the top floor) would need to move out during the repair works. It wasn't clear yet whether the Tenant would have to vacate and she could not advise whether he would be decanted or would have to make his own alternative arrangements while the works were ongoing.

13. Ms Jamieson was unable to answer questions about the specific repairs issues which are the subject of the Application. She advised that she carries out administrative duties in relation to the properties managed by the agency but that Shakil Ahmed deals with repairs. She was not therefore in a position to contradict the Tenants evidence about the repairs issues raised and did not dispute any of the issues he raised in relation to repairs. The landlords had not

17. In November 2015 Shakil Ahmed inspected the property and arranged for a tree growing out of the building to be removed which he said would resolve the dampness. He arranged for a washing machine repair man to attend but he did not repair the machine due to the anticipated cost of same. No other repairs have been carried out.
18. The living room, bedroom and shower room at the property are affected by condensation and penetrating damp. The floors in the living room, hall and bedroom slope. There is a leak above the window in the shower room and the washing machine is defective.
19. The Landlord in conjunction with the owners of the other properties at the tenement propose to carry out major structural works to the property. No start date or definitive timescales are available.
20. The property does not have a carbon monoxide detector or a heat detector in the kitchen. The only smoke detector is located in the hall and is battery operated.

Reason for decision

21. The Committee considered the issues of disrepair set out in the Application and noted at the inspection and hearing.
22. There is clear evidence of dampness in the living room, bedroom and shower room. The floors of the property slope significantly. The Committee accepted the evidence of the Tenant that there is a continuing leak in the shower room when it rains and that the washing machine is defective. The Committee also accepted his evidence that he had brought these matters to the attention of Shakil Ahmed and later to the Letting Agent but that no steps had been taken to resolve the issues. The Tenant's evidence in relation to all of these matters was not challenged by the Landlord's agent. She accepted that there were major repair issues at the property. Her only explanation for the delay in the matters being attended to was that the problems did not only affect the property but the whole tenement. It had been difficult and time consuming to get a factor appointed, a contractor selected, secure grant funding and the agreement of all of the owners. She offered no explanation for the failure to deal with the washing machine repair or replacement in the meantime. While the Committee accepted the evidence that major structural works were planned the lack of definitive dates and timescales was of concern and it was clear that no temporary repairs or repair/replacement of the washing machine had been considered meantime. It had not been established whether the tenant would have to move out during the works, or where he would go if this was required. The Committee were of the view that there was

considerable uncertainty surrounding the works. The Committee had been concerned also that the Tenant had dealt exclusively with Shakil Ahmed who was not an owner nor an agent in relation to the property but accepted the evidence from the Letting Agent that he had acted with the authority of the Landlords.

23. The Committee concluded that the Landlord requires to take steps to eradicate the dampness within the property, repair the leak in the shower room, repair or replace the washing machine and have the slope in the floor corrected. As the Letting Agent predicted that the major proposed works would take around 12 weeks this is the time stipulated in the Repairing Standard Enforcement Order. However, the Committee is of the view that the issue with the washing machine should be dealt with immediately and while the tenant's application does not complain about the lack of a CO alarm or provision of smoke/heat detectors and so this cannot form part any RSEO, the committee points out that the Landlord should also install a CO and heat detector in the kitchen and hardwired interlinked smoke alarms in the hall and living room to comply with current guidance without delay. The repairing standard includes a requirement under section 13 (1) (f) of the 2006 Act that the house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire. In determining whether a property has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire, section 13 (5) of the Act states that regard is to be had to any building regulations and any guidance issued by the Scottish Ministers on these matters.

24. The Committee accordingly took the view that it will require to make a Repairing Standard Enforcement Order in respect of the dampness in the living room, shower room and bedroom, the washing machine, the leak in the shower room ceiling and the defective floors.

Decision

25. The Committee accordingly determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

26. The Committee proceeded to make a Repairing Standard Enforcement Order as required by section 24(1)

27. The decision of the Committee was unanimous

Right of Appeal

28. **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

29. 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.

J. BONNAR

Signed....
Josephine Bonnar
Chairperson

.....Date...9 May 2016



Schedule of photographs taken during the inspection of Flat 1/1, 544 Hamilton Road
Uddingston, Glasgow G71 7SG
by the Private Rented Housing Committee on the 25 April 2016.

Reference Number : PRHP/RP/16/0060



External view - Front elevation of property



Living Room - front corner to right of bay window



Living Room - front corner to right of bay window at ceiling



Living Room - front corner to right of bay window - base of walls



Living Room - inset cupboard



Living Room - inset cupboard



Bedroom to rear - right side of window



Bedroom to rear - left side of window



Bedroom to rear - right side of window above inset cupboard to gable wall



Bedroom to rear - right side of window at base of wall adjoining cupboard



Bedroom to rear - inset cupboard to gable wall



Shower room - above window/toilet



Shower room - shower tray and tiling



Shower room - walls/ceiling above shower



Shower room - wall adjoining common stair



Kitchen - washing machine



Kitchen - fan to gable wall



Rear Elevation



Front elevation