



**Repairing Standard Enforcement Order
Ordered by the Private Rented Housing Committee**

PRHP/RT/16/0146

Title Number: MID34920

Re: The residential dwellinghouse at

**4/5 Restalrig Crescent
Edinburgh
EH7 6EX
("the Property")**

The Parties:-

**Mr Gordon Shaw
resident at the Property
("the Tenant")**

**The City of Edinburgh Council
East Office
101 Niddrie Mains Road
Edinburgh
EH16 4DS
("the Third Party Applicant")**

and

**Mr Christopher Divens
20 Hermitage Park
Edinburgh
EH6 8HB
("the Landlord")**

The Committee comprised:

Mr Ron Handley - Chairperson
Mr Ian Murning - Surveyor Member

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NOTICE TO THE LANDLORD

In terms of their decision dated 12 August 2016, the Private Rented Housing Committee ("the Committee") determined that the Landlord had failed to comply with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006.

The Committee now requires the Landlord to carry out such works as are necessary for the purposes of ensuring that the Property 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 to:

1. Install a shower screen/curtain in the bathroom to ensure that water is contained within the bath when the shower is being used.
2. Repair or replace the missing tiles within the bathroom and then carryout such investigations and remedial works to ensure that there is no ingress of water between the bath and the internal wall.
3. Replace the door handle on the bathroom door.
4. Replace the seat in the WC.
5. Connect an electrical supply to the extractor fan which is located within the bathroom and then ensure that the extractor fan is in proper working order.
6. Replace the missing door of the kitchen unit (located next to the cooker).
7. Repair the washing machine (or replace it) to ensure that it is in proper working order.
8. Clean and remove the vegetation growing in the guttering and thereafter carryout such repairs as are necessary to ensure that the guttering is in a reasonable state of repair and in proper working order.
9. Carry out investigations in identify the source of dampness within the Property and, if necessary carry out such works as are necessary to ensure that the Property is wind and water tight.
10. Ensure that all the windows in the Property can be locked/unlocked and provide the Tenant with a key for each window.
11. Carry out such work as is necessary for the purposes of ensuring that the provisions for detecting fires and for giving warning in the event of fire or suspected fire within the Property comply with the statutory guidance of the Repairing Standard and in particular require that mains powered smoke alarms are installed. The alarms should be installed in accordance with the recommendations contained in the British Standard on the Design of Fire Detection Installation for Dwellings (BS5839 Part 6).

The Private Rented Housing Committee orders that the works specified in this Order must be carried out and completed within the period of 4 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 this and the preceding page is subscribed by Ronald G Handley, Solicitor, Chairperson of the Committee at Dunbar on 12 August 2016 before this witness:-

J. HANDLEY

R. HANDLEY

Witness

Chairperson

JANE HANDLEY

Name in full

23 LESLIE WAY

Address of witness

DUNBAR, EH42 1GP



**Statement of Reasons of the Private Rented
Housing Committee under Section 26(1) of the
Housing (Scotland) Act 2006**

PRHP/RT/16/0146

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The Committee comprised:

Mr Ron Handley - Chairperson
Mr Ian Murning - Surveyor Member

The Committee's Decision

The Committee, having made such enquiries as it saw fit unanimously determined that the Landlord had failed to comply with the requirement to ensure that the Property met the Repairing Standard as defined in section 13 of the Housing (Scotland) Act 2006 ("the Act").

Background

1. On or around 10 April 2016 the Tenant applied to the Private Rented Housing Panel ("the PRHP") for a determination as to whether or not the Landlord had failed to comply with the duties imposed by Section 14(1) (b) of the Act.

The Application

2. In his application the Tenant alleged that the Landlord had failed to comply with the duty to ensure that the Property met the Repairing Standard. In particular it was submitted that the Landlord had:
 - failed to ensure that the installations in the Property for the supply of water, gas and electricity and for sanitation, space heating and heating water were in a reasonable state of repair and in proper working order;
 - failed to ensure that any fixtures, fitting and appliances provided by the Landlord under the tenancy were in a reasonable state of repair and in proper working order;
 - failed to ensure that any furnishings provided under the tenancy were capable of being used safely for the purpose for which they were designed;
 - failed to ensure that the Property had satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.
3. In particular it was submitted that there was dampness and mould within the Property, the toilet seat was missing and the cistern was not working. There was no handle on the bathroom door, the kitchen door was missing as were kitchen cupboards. It was also suggested that the washing machine was unsafe. The Tenant further submitted that there were problems with the guttering, the window keys were missing, the front door was unsafe and there was no letter box. It was stated that the bathroom tiles were coming off the wall.
4. The Tenant advised that the Landlord had been requested to carry out repairs in the Property but had mostly refused to do so.

The Inspection

5. The Committee inspected the Property at 10.00 hrs on 1 August 2016. The Tenant was present at the inspection. The Landlord did not attend the inspection and was not represented. Prior to commencing the inspection the Chairperson reminded the Tenant that the Committee could only consider matters which had been included in his application form and duly intimated to the Landlord and that the task of the

Committee was to determine whether the Repairing Standard had been met.

The Hearing

6. A Hearing was scheduled to take place after the inspection in George House, 126 George Street, Edinburgh, EH2 4HH at 11.00hrs.
7. Ms Breckenridge (the Tenant's partner) and Ms Ivana Greenan, Housing Support Officer attended the Hearing on behalf of the Tenant. The Landlord did not attend and was not represented.
8. The Chairperson confirmed that the Committee had inspected the Property at 10.00 hrs and reminded those present that the role of the Committee was to determine whether the Repairing Standard had been met.
9. Ms Greenan provided the Committee with a background to the application and advised that Tenant and Ms Breckenridge were frustrated by the lack of progress in these matters.

Findings

10. The Committee found the following facts to be established:
 - The Property is a top floor flat located in a block of flats at 4/5 Restalrig Crescent, Edinburgh, EH7 6EX.
 - The Tenant previously entered into a Tenancy Agreement with the Landlord that related to the Property.
 - The seat for the WC is missing and the external handle of the bathroom door is missing. The cistern is in proper working order. There is a shower over the bath but there is no shower screen/curtain. When the shower is being used the shower water is not all contained within the bath (as it should be) and has resulted in water ingress under the bath. There are loose tiles in the bathroom and the sealant is inadequate. There is water ingress in the internal wall between the kitchen and the bathroom. An electric extractor fan has been installed in the bathroom but it is not working.
 - The kitchen is off the living room and there is no kitchen door. A door from a kitchen unit (next to the cooker) is missing. The washing machine leaks when in use and is not in a reasonable state of repair or in proper working order.
 - The internal front door has a "Yale" lock which is in proper working order. The letter box in the internal front door is also in proper working order.

- There is evidence of mould/dampness in the walls and ceilings of the single bedroom, the double bedroom and in the living room.
- The windows within the Property comprise lockable PVC double glazed units. Although the windows open and close properly, there are no keys for any of the units and consequently it is not possible to lock the windows. The windows are not in proper working order.
- A battery operated smoke alarm is located in the hallway and is in proper working order. The provision for smoke alarms within the Property does not meet the requirements of the relevant building regulations.

Reasons

11. Bathroom

In the course of the inspection the Committee noted that the seat for the WC was missing and the external handle of the bathroom door was also missing. The Committee found that the cistern was in proper working order. Although a shower is positioned over the bath, there is no shower curtain/screen. It was clear to the Committee that when the shower is being used, the shower water will not be contained within the bath. There was clear evidence that shower water runs onto the bathroom floor and then under the bath resulting in dampness. The Committee noted that there were loose tiles in the bathroom and that part of the sealant was inadequate. This had resulted in water ingress in the internal wall between the bathroom and the kitchen. An inspection of the area behind the fridge in the kitchen confirmed this finding.

12. Kitchen

As indicated, the Tenant suggested in his application that the kitchen door was missing. He confirmed at the inspection that there had been no kitchen door throughout the duration of the tenancy. The Committee noted that the kitchen was relatively small and concluded that it was likely that the kitchen door had been removed in an effort to create more space and an "open plan" effect. We did not accept that the removal of the kitchen door had resulted in a failure to meet the Repairing Standard. The Committee noted that the door of one of the kitchen units (next to the cooker) was missing and should be replaced.

13. Front door

It was suggested in the application form that the lock in the internal front door was defective. However on inspection the Committee noted that the door had a "Yale" lock which was in proper working order. Similarly, although the Tenant had taped cardboard over the inside of the letter box, the Committee found that the letter box was in a reasonable state of repair and was in proper working order.

14. Smoke alarms

The Tenant explained in the course of the inspection that a smoke alarm had been installed in hallway and that it was in proper working order. The Committee had no reason to doubt this claim. However given that there was only one battery operated smoke alarm within the Property, the requirements of the relevant building regulations were not met.

15. Dampness

It was clear from the inspection that there were evidence of mould, dampness/previous dampness in the ceilings in the bathroom and bedrooms. There was also evidence of dampness in an area under the window of the living room. Tests using a Protimeter revealed no dampness in these areas. However the Committee were mindful that the inspection had been carried out at a time when there had been little rain. The Committee also noted that there was evidence of vegetation growing in the guttering, particularly at the front of the building. This would inevitably lead to gutters overflowing in times of high rainfall and could eventually cause dampness within the Property. The Committee noted that the Tenant dried clothing by hanging it over clothes rails within the Property. In the event that the Property was not properly ventilated, such practice would result in condensation within the Property. It was not possible to identify the sources of the mould/dampness within the Property but the Committee concluded that the dampness could be caused as a result of blocked gutters or by condensation or by a combination of both. The Committee considered that it was necessary to require the Landlord to clean the gutters, remove all vegetation and identify and remedy the causes of the mould/dampness within the Property. The Committee also noted that the extractor fan in the bathroom was not working. We concluded that a properly working extractor fan would assist to alleviate any condensation.

16. Windows

The windows are all double glazed PVC units. Although each unit has a lock, no keys have been made available to the Tenant. The Tenant is unable to lock the windows.

The Decision

17. The Committee determined that the Landlord had failed to comply with the duty imposed by section 14(1) (b) of the Act.
18. The decision of the Committee was unanimous.

Right of Appeal

19. A Landlord(s) or Tenant(s) aggrieved by the decision of a PRHP Committee may appeal to the Sheriff by summary application within 21 days of being notified of that decision.

Effect of section 63 of the Act

20. 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. 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.

R. HANDLEY

Signed ...
Chairperson

..... Date 12 August 2016

4/5 Restalrig Crescent Edinburgh EH7 6EX

Photos from Re-inspection

PRHP/RT/16/0146

1st August 2016

Surveyor Ian H Murning TD

1/08/2016

1

Front Elevation



1/08/2016

2

Rear Elevation 1



1/08/2016

3

Rear Elevation 2 Showing Plant Growth



1/08/2016

4

WC With Toilet Seat Missing



1/08/2016

5

Rotten Kickplate Bottom of Bath Side



1/08/2016

6

Mould Staining Ceiling/Wall of Bathroom



1/08/2016

7

Bathroom Extractor Fan Not Wired Up



1/08/2016

8

Loose Wall Tiles Above Bath – No Seal



1/08/2016

9

Door Handle Missing From Bathroom Door



1/08/2016

10

Damp/Condensation Staining on Ceiling



1/08/2016

11

Mould Staining on Ceiling/Walls



1/08/2016

12

Mould Staining on Ceiling/Walls 2



1/08/2016

13

Mould Staining In Cupboard



1/08/2016

14

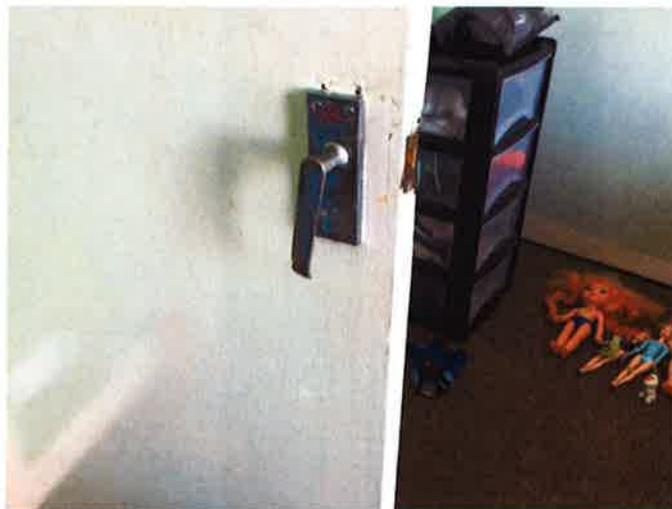
Broken/Cracked Power Point



1/08/2016

15

Door Handle Requiring Repair



1/08/2016

16

Damp/Condensation Staining Under Window



1/08/2016

17

Cupboard Door Off Kitchen Cabinet



1/08/2016

18

Damp/Condensation Staining Kitchen Walls



1/08/2016

19

1/08/2016

20

Condensation Staining in Kitchen Cupboard



1/08/2016

21

Vokera Wall Mounted Combi Boiler



1/08/2016

22

Central Heating/Hot Water Programmer



1/08/2016

23

Damp Wall Behind Fridge Adjacent Bathroom



1/08/2016

24

Protimeter Red Indication Wall Behind Fridge



1/08/2016

25

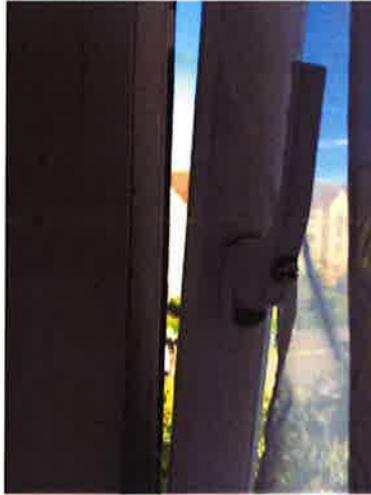
Washing Machine Leaks From Detergent Tray



1/08/2016

26

Example uPVC Window – No Key



1/08/2016

27

Smoke Alarm Hall Installed by Fire Service



1/08/2016

28

Electricity Consumer Unit With RCD



1/08/2016

29

Cardboard Flap Over Letter Box Front Door



1/08/2016

30

Double Glazed Window Misted - Seal Failure 1



1/08/2016

31

Double Glazed Window Misted - Seal Failure 2



1/08/2016

32

Clothes Drying Adjacent Radiator In Winter



1/08/2016

33

Former Hot Cylinder Cupboard



1/08/2016

34

