



REPAIRING STANDARD ENFORCEMENT ORDER
Ordered by the Private Rented Housing Committee

RE: All and Whole the flatted dwelling house known as 26 Alexander Street, Uphall, West Lothian EH52 5DB more particularly described Land Certificate WLN13386 (hereinafter referred to as “the House”)

The Parties:

Jamielee Fielding residing at 26 Alexander Street, Uphall, West Lothian EH52 5DB (hereinafter referred to as “the Tenant”)

Ronald Gordon Stuart residing at 19 Ross Way, Livingston EH54 8LA (hereinafter referred to as “the Landlord”)

PRHP REFERENCE PRHP/RP/16/0215

NOTICE TO RONALD GORDON STUART

WHEREAS in terms of their decision dated 1 September 2016 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,*
- (c) the installations in the house 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 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 render the House free from penetrating dampness.
- 2 To repair all damage caused to the House by the ingress of water.
- 3 To treat with appropriate fungicide all mould so that the House is left free from mould and thereafter to redecorate all affected areas so that the House is in reasonable decorative order.
- 4 To repair or replace the extractor fan in the kitchen/living room so that there is in place a fan which is in good working order.
- 5 To repair or replace the gas central heating boiler so that there is present within the House a central heating boiler which is in good working order
- 6 To produce to the office of the PRHP a current Landlords Gas Safety Certificate issued by a Gas Safe registered engineer which confirms that the central heating system is in safe, working order.

The Committee orders 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 first day of September Two Thousand and Sixteen in the presence of the undernoted witness:

John McHugh

Chairperson

Gillian McHugh

Witness

GILLIAN MCHUGH

Witness Address

*65 HAYMARKET TERRACE
EDINBURGH
EH12 5HD*



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 26 Alexander Street, Uphall, West Lothian EH52 5DB (hereinafter referred to as “the House”)

Jamielee Fielding residing at 26 Alexander Street, Uphall, West Lothian EH52 5DB (hereinafter referred to as “the Tenant”)

Ronald Gordon Stuart residing at 19 Ross Way, Livingston EH54 8LA (hereinafter referred to as “the Landlord”)

PRHP REFERENCE PRHP/RP/16/0215

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, and taking account of the written documentation attached to the application and the parties' oral representations, determined that the Landlord had failed to comply with the duty imposed by section 14(1)(b) of the Act.

Background

By application received on 13 June 2016 (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,
(c) the installations in the house 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 landlord under the tenancy are in a reasonable state of repair and in proper working order,
(e) any furnishings provided by the landlord under the tenancy are capable of being used safely for the purpose for which they are designed”*

The Tenant complained that the boiler did not work and of damage caused by water ingress.

By letter of 7 July 2016, 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
Ian Murning, 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 18 August 2016. The Landlord and Tenant were both present.

A hearing took place thereafter at Livingston Station Community Centre. Both the Landlord and the Tenant were in attendance.

Submissions at the Hearing

The Tenant reported that the boiler had stopped working around December 2015 and she had been without heating (other than via a portable electrical heater) and hot water (other than via the electric shower) since. She had been advised by the Landlord that the boiler situation could not be addressed until problems associated with water ingress had been dealt with.

The Landlord acknowledged that the boiler had not functioned since around January 2016 and that there is no current gas safety certificate in respect of it. He advised that the boiler has been damaged by water ingress and required to be replaced. He advised that he had provided the Tenant with two portable electrical heaters as alternative means of heating the House. He observed that the shower was electric and so hot water was available to the Tenant for washing.

The Tenant reported that there had been problems with water ingress and dampness throughout the House. She reported an occasion of water running down the bedroom wall. She reported the presence of extensive mould throughout the House. The problem had become worse from around the time when the boiler had stopped working.

The Landlord acknowledged that the House had suffered from water ingress. This had come from a historic leak from the bathroom of the flat above and from water penetrating the fabric of the building. He had engaged a contractor to carry out waterproofing and the House had been sprayed with a silicone based product up to floor level of the flat above. The Landlord believed that there was no longer any fresh water ingress. A dehumidifier had dried out the walls which had been affected. The Landlord advised that he had cleaned away mould growth. He considers that problems with mould growth are partly caused by condensation related to the Tenant's lifestyle. He acknowledges that the extractor fan in the kitchen/living room is not working. He intends to install an extractor fan in the bathroom. He accepts that works are necessary to address the damage caused by the water ingress and by the presence of mould.

The Landlord advised that the Tenant had delayed repairs by refusing to allow access to his workmen. The Tenant's position was that the Landlord had failed to give her adequate notice of the arrival of workmen.

The Tenant advised that she had been unaware that the exterior weatherproofing works had been carried out.

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:

There is a Tenancy Agreement between the Landlord and Tenant dated 27 December 2014.

A tenancy exists between the Landlord and Tenant.

Ronald Gordon Stuart is the registered owner of the House.

The Tenant took possession of the House from 27 December 2014 and remains in occupation.

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

The Tenant notified the Landlord of the defect in the House which is now the subject of the Application by email of 10 June 2016 addressed to the Landlord.

The inspection on 18 August 2016 revealed:

The House is a ground floor flat in located at the end of a terrace

There is one flat immediately above the House.

There has been water ingress damage to the bedroom.

Mould growth is present in all rooms.

Other than immediately beneath the bedroom window and close to the front door, there was found to be no dampness present within the structure of the walls.

The boiler appears not to be operational.

The extractor fan in the kitchen/living room does not work.

A single, battery operated smoke detector has been installed.

A schedule of photographs taken at the inspection is appended to this Determination.

Reasons for the Decision

Boiler

It is not disputed that the gas central heating boiler has not functioned since at least the beginning of 2016.

Water Damage/Mould

The House has been badly affected by the presence of moisture and is in poor decorative order. There is no dispute that the House requires extensive works to address the damage caused by water ingress.

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 fact that the absence of a functioning central heating is a matter which is likely to have a detrimental effect upon the Tenant's enjoyment of the House.

Observations

The Landlord is advised to review the current arrangements for fire detection and to have regard to the terms of the Scottish Government Guidance on Satisfactory Provision for Detecting and Warning of Fires.

The Landlord has indicated his intention to install mechanical ventilation in the bathroom which would seem appropriate if further problems related to the presence of moisture are to be avoided.

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.

John McHugh

John M McHugh
Chairperson

Date: 1 September 2016

26 Alexander Street Uphall EH52 5DB

Photos from inspection
PRHP/RP/16/0215
18th August 2016
Surveyor Ian H Murning TD

18/08/2016

1

Front Elevation GF



18/08/2016

2

Side/Front Elevation



18/08/2016

3

Rear Elevation GF/Basement



18/08/2016

4

Rear Roof/Gutter showing Slipped Slates



18/08/2016

5

Front Gutter Showing Slipped Slates



18/08/2016

6

Cracking in Roughcast Above Lintel Rear Elevation



18/08/2016

7

Evidence of Previous Damp Treatment Below Front Window



18/08/2016

8

Protimeter RED Reading Front Door 1



18/08/2016

9

Protimeter RED Reading Front Door 2



18/08/2016

10

Protimeter RED Reading Front Door



18/08/2016

11

Wall & Ceiling Rear Bedroom Above Gas Boiler Cupboard - Extensive Mould Visible



18/08/2016

12

Rear Room Lower Back Wall showing Extensive Mould



18/08/2016

13

Pump & Controls Gas Boiler



18/08/2016

14

Gas Boiler Bedroom Cupboard



18/08/2016

15

CO Alarm - Battery Operated Adjacent Gas Boiler Cupboard



18/08/2016

16

Extensive Mould on Ceiling/Walls Bedroom



18/08/2016

17

Wall & Ceiling above Bathroom Window



18/08/2016

18

Bathroom Wall Showing Mould



18/08/2016

19

Extensive Mould Staining Behind Toilet



18/08/2016

20

Kitchen Extractor Fan (not Working) & Mould



18/08/2016

21

Battery Operated Smoke Alarm on Hallway Ceiling



18/08/2016

22