

Determination by the Private Rented Housing Committee

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

prhp Ref: EH15/26/09

**Re: Property at 35 Southfield Farm Grove, Duddingston, Edinburgh
EH15 1SR ("the Property")**

The Parties:-

**Kathryn Mitchell and Annie Ferguson of 35 Southfield Farm Grove,
Duddingston, Edinburgh ("the Tenants")**

**Elizabeth Raymonde Manshoury and Mehdi Manshoury, 9 Duddingston
Crescent, Edinburgh ("the Landlords")**

Decision

The Committee, having made such enquiry as it saw fit for the purposes of determining whether the Landlords have 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 Landlords and the Tenants at the Hearing determined that the Landlords have failed to comply with the duty imposed by Section 14(1)(b) of the Act.

Background

- 1. By application dated 10th March 2009 the Tenants applied to the Private Rented Housing Panel for a determination of whether the Landlords 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 Tenants stated the Tenants considered that the Landlords had failed to comply with their duty to ensure the house meets the repairing standard and the Tenants brought forward the following alleged breaches:-**

- (a) The central heating and hot water supply is not in a proper state of repair and in proper working order (breach of Section 13(1)(c)).
 - (b) The shower and associated bathroom fittings are not in proper working order or a reasonable state of repair inasmuch as the shower unit leaks (breach of Section 13(1)(d)).
 - (c) The whole electrical wiring system and installations for the supply of electricity are not in a reasonable state of repair or proper working order (breach of Section 13(1)(c)).
 - (d) Back and front doors are not in a reasonable state of repair, patio door has two holes in the door frame and sill allowing dampness to penetrate (breach of Section 13(1)(b)).
 - (e) Kitchen tap leaks and is therefore not in a proper state of repair or reasonable working order (breach of Section 13(1)(d)).
 - (f) The oven does not evenly distribute heat and is not in proper working order or a reasonable state of repair (breach of Section 13(1)(d)).
3. The Private Rented Housing Committee served Notice of Referral dated 23rd April 2009 under and in terms of Schedule 2, Paragraph 1 of the Act on both the Landlords and the Tenants.
 4. Following service of the Notice of Referral both the Landlords and Tenants made further written representations to the Committee.
 5. The Private Rented Housing Committee inspected the property on the morning of the 1st July 2009. The Tenants and Mr. Manshoury for the Landlords were present during the inspection.
 6. Following the inspection of the property the Private Rented Housing Committee held a Hearing at Portobello and heard from both the Tenants and the Landlords. Neither party was represented.
 7. The Tenants submitted they treated the house as their home and tried to take good care of it. For reasons which do not concern this Committee relations between Landlords and Tenants broke down a number of months ago. The Landlords are now slow to undertake repair work.

Water from the shower which is situated over the bath leaks onto the bathroom floor and the Tenants have been told to mop up excess water with towels and to confine themselves to very short showers. The dampness had penetrated down to the kitchen ceiling. The water spillage soaks into the towels placed on the floor by the Tenants. The shower screen does not seem to direct the water down the bath plug.

The electrics are hazardous. There are live wires in the kitchen, flickering lighting in the hallway and loose sockets in the bedroom. The bathroom electric fan and light is a particular cause of concern as it is loose. The kitchen tap leaks when it swivels and the fan assisted oven reaches temperature on one side only. The front door leaks in heavy rain. The back door does not fit the door frame properly or lock without being manhandled. The frame and sill of the patio door are decayed. The central heating system is old and is not energy efficient although it has now been repaired and provides hot radiators and hot water.

8. The Landlords referred to their written submissions. In general terms the Landlords felt if the house was used in a way which took account of some of the foibles of the fixtures and fittings there should be no problems.

As regards water drainage from the shower unit the landlords reiterated that when towels were used to sop up water spillage there was no problem. The Tenants had been having short showers and using the towels in the manner prescribed by the Landlords and as a result of this the floor was drying up and the kitchen ceiling was dry.

Mr. Manshouri confirmed he would have a look at the electrics.

Mr. Manshouri advised he had fixed the washer and replaced a screw in the kitchen tap.

Mr. Manshouri stated contemporary cooking programmes recommended turning food in ovens.

The Landlords cannot explain why the front door might leak in heavy rain. The back door fits and locks if opened and closed in the special manner as prescribed by the Landlords. The Landlords noted the decay at the frame and sill of the patio doors.

The Landlords produced a gas safety certificate which confirmed the central heating system is currently in proper working order.

Findings of Fact

9. Having inspected the property, taken account of the oral and written evidence and thereafter being guided by Committee's professional surveyor Member the Committee finds the following facts to be established:-

(a) During the course of our inspection we saw exposed wiring in the kitchen loose sockets in the bedroom and erratic lighting in the hall and bathroom. This causes us grave concern. On the basis of our own inspection we cannot be satisfied the installations in the house for the supply of electricity are in a reasonable state of repair and proper working order and we find the Landlords in breach of the repairing standard Section 13(1)(c).

(b) We examined the front, back and patio doors and took guidance from our professional surveyor Member. From our inspection we find the back door does not lock or close as it has been designed to do. The frame and sill round the patio doors exhibits significant decay allowing dampness and draughts to penetrate the dining area of the house. Accordingly taking account of our own findings and having heard evidence from the Tenants we find the Landlords are in breach of the repairing standard Section 13(1)(b). From our inspection today the front door was in a proper state of repair. While we accept the evidence of the Tenants that in very heavy rain there is sometimes water penetration we have such limited information on this point that we decline to find a breach of the repairing standard as regards the front door at this time.

(c) From our own inspection and being guided by our own professional surveyor Member we find the alignment of the bath, screen and shower fittings prevents the shower unit draining appropriately and accordingly there is a breach of Section 13(1)(d).

(d) From our inspection it was self evident the kitchen tap is not currently in proper working order and there is a breach of Section 13(1)(d).

(e) We accept the Tenants evidence that the fan assisted oven does not provide even heat throughout the oven. The Landlords did not lead evidence in contradiction. Accordingly there is a breach of Section 13(1)(d).

(f) We accept the gas central heating is currently in a reasonable state of repair and in proper working order. The Tenants would prefer a more efficient system however on the basis of the evidence of the Tenants themselves and having had sight of the Gas Certificate we are satisfied there is no breach of the repairing standard in regard to this matter.

Decision

10. The Committee accordingly determined that the Landlords have failed to comply with the duty imposed by Section 14(1)(b) of the Act.
11. The Committee proceeded to make a Repairing Standard Enforcement Order as required by Section 24(1).
12. The decision of the Committee was unanimous.

Right of Appeal

13. **A Landlord or Tenant aggrieved by the decision of the Private Rented Housing Committee may apply to the Sheriff by summary application within 21 days of being notified of that decision.**

Effect of Section 63

14. 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 **A McCamley**
Chairperson [Ⓢ]

Date 16th July 2009

Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

prhp Ref: EH15/26/09

**Re : Property at 35 Southfield Farm Grove, Duddingston, Edinburgh
EH15 1SR ("the Property")**

Title No: MID42780

The Parties:-

**Kathryn Mitchell and Annie Ferguson of 35 Southfield Farm Grove,
Duddingston, Edinburgh ("the Tenants")**

**Elizabeth Raymonde Manshouri and Mehdi Manshouri, 9 Duddingston
Crescent, Edinburgh ("the Landlords")**

NOTICE TO Elizabeth Raymonde Manshouri and Mehdi Manshouri, 9 Duddingston Crescent, Edinburgh ("the Landlords")

Whereas in terms of their decision dated Sixteenth July 2009, the Private Rented Housing Committee determined that the landlords have failed to comply with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 and in particular that the landlords have failed to ensure:-

- (1) The structure and exterior of the house are in a reasonable state of repair and in proper working order - Section 13(1)(b) of the Act.
- (2) 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 - 13(1)(c) of the Act.
- (3) Any fixtures, fittings and appliances provided by the Landlords under the tenancy are in a reasonable state of repair and in proper working order - Section 13(1)(d) of the Act.

the Private Rented Housing Committee now requires the landlords to carry out such works as are necessary for the purposes of ensuring the house meets the repairing standard and that any damage caused by the carrying out of any works in terms of this order is made good.

In particular the Private Rented Housing Committee requires the Landlords:-

- To carry out such works as are necessary to ensure the entire electrical wiring system and the installations in the house for the supply of electricity are in a reasonable state of repair and proper working order and to provide a Certificate of Electrical Safety from a suitably qualified electrician to confirm the position.
- To renew or repair the back door to ensure it fits the door frame and is in a reasonable state of repair and operating/working in accordance with manufacturers specification.
- To repair the significant decay in the patio door frame and sill.
- To carry out such works as are necessary to ensure the shower unit water drains away via the water pipes and to ensure there is no external leakage.
- To replace the mixer tap in the kitchen unit.
- To repair or replace the fan assisted oven to ensure it is in proper working order providing an even heat throughout.

The Private Rented Housing Committee order that the work specified in this Order must be carried out and completed within a period of **ten 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 typewritten on this and the two preceding pages are executed by Anne McCamley, Solicitor, Chairperson of the Private Rented Housing Committee at Edinburgh on Sixteenth July Two Thousand and Nine before Murdoch McCamley, Chartered Accountant, Osborne House, Osborne Terrace, Edinburgh.

M McCamley
_____ witness


A McCamley
_____ chairman
