

Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

Ref: PRHP/G41/41/13

Re property at: Basement Flat, 493 Shields Road, Glasgow, G41 2RF, being the the flatted dwelling house known as and forming the basement flat within the building at 493 Shields Road, Glasgow being the subjects more particularly described and dispoed in a Disposition by Sohan Singh Snadgu in favour of Jiwan Singh and Jasbir Kaur dated Sixth and recorded in the Division of the General Register of Sasines applicable to the County of the Barony and Regality of Glasgow on the Thirteenth both days in June in the year Nineteen hundred and Eighty three ("the Property")

The Parties:-

Miss MARIA HOLMES, residing at Basement Flat, 493 Shields Road, Glasgow, G41 2RF ("the Tenant")

And

JIWAN SINGH & JASPIR KAUR, per their Agents, 1st Lets, having their place of business at 704 Cathcart Road, Glasgow, G42 8ES ("the Landlords")

NOTICE TO JIWAN SINGH & JASPIR KAUR per their Agents, 1st Lets, having their place of business at 704 Cathcart Road, Glasgow, G42 8ES

Whereas in terms of their decision dated 21 May 2013, the Private Rented Housing Committee determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 and in particular that the Landlord had failed to ensure that:-

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 works as are 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 landlords to carry out such works as are necessary to:

- (a) carry out such works as are necessary to the kitchen sink, and the kitchen unit which houses that sink, so that the sink and the kitchen unit are in a reasonable state of repair and proper working order.
- (b) carry out such works as are necessary to the kitchen unit which houses the cooker within the proper so that it is in a reasonable state of repair and proper working order.

- (c) carry out such works as are necessary to repair the seal/draught excluder around the front door of the property so that it is in a reasonable state of repair and in proper working order.
- (d) carry out such works as are necessary to the self-closing mechanism for the common entrance front door so that it is brought into a reasonable state of repair and proper working order.

The Private Rented Housing Committee order that the works specified in this Order must be carried out and completed within a period of 4 weeks from the date of this order.

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.

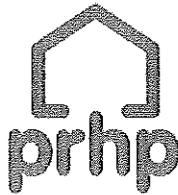
A Cowan

Signed Date 21 May 2013
Andrew Cowan, Chairperson

L McManus

.....Witness

Laura McManus, Secretary, 7 West George Street, Glasgow, G2 1BA



Statement of decision of the Private Rented Housing Committee under Section 25 (1) of the Housing (Scotland) Act 2006

Ref: PRHP/G41/41/13

Re property at: Basement Flat, 493 Shields Road, Glasgow, G41 2RF, being the the flatted dwelling house known as and forming the basement flat within the building at 493 Shields Road, Glasgow being the subjects more particularly described and disponded in a Disposition by Sohan Singh Snadgu in favour of Jiwan Singh and Jasbir Kaur dated Sixth and recorded in the Division of the General Register of Sasines applicable to the County of the Barony and Regality of Glasgow on the Thirteenth both days in June in the year Nineteen hundred and Eighty three ("the Property")

The Parties:-

Miss MARIA HOLMES, residing at Basement Flat, 493 Shields Road, Glasgow, G41 2RF ("the Tenant")

And

JIWAN SINGH & JASPIR KAUR, per their Agents, 1st Lets, having their place of business at 704 Cathcart Road, Glasgow, G42 8ES ("the Landlords")

Decision

The Committee, having made such enquiries as it saw fit for the purpose of determining whether the Landlords have 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 Landlords and the Tenant 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 4 March 2013, Miss Maria Holmes applied to the Private Rented Housing Panel for a determination as to whether the Landlords had failed to comply with the duties imposed by Section 14 (1)(b) of 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 the Tenant brought forward the following alleged breaches:-**

- (a) the guttering and external pipes at the property are not in a reasonable state of repair, the consequence of which is rain water penetration into the property;
- (b) the kitchen window suffers from condensation;
- (c) a number of the kitchen units within the property are not in a reasonable state of repair or in proper working order. A number of the kitchen units have been nailed together or are broken. In addition water does not drain from the sink draining board;
- (d) There is a live plug socket next to the kitchen sink which is inherently unsafe;
- (e) The plug socket adjacent to the oven/cooker constantly fuses;
- (f) The linoleum flooring in the kitchen has been damaged
- (g) The flooring within the living room is "bouncy" and does not appear to be safe;
- (h) The seal around the front door of the property is not in a reasonable state of repair;
- (i) The common entry intercom system does not operate;
- (j) The wall above the common entrance front door needs plastered;
- (k) The lights within the common entrance require replacement; and
- (l) The common entrance front door closing mechanism does not operate properly.

3. In light of these complaints, the Tenant considered that the Landlords had failed to meet the repairing standard and, in particular the Landlord had failed to ensure that:-

- (a) the house is wind and water tight and 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; and
- (c) any fixtures, fittings and appliances provided by the Landlords under the tenancy are in a reasonable state of repair and in proper working order.

4. By letter dated 12 March 2013, 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.

5. Following service of the Notice of Referral, the Landlords wrote to the Committee to advise that their Agents had contacted a company who would survey the property to ascertain any works required. The Agents also confirmed that contractors had been arranged to survey the guttering at the property and that an electrician had been booked to attend at the property.

6. By letter dated 30 April 2013, the Private Rented Housing Committee advised both the Landlords and the Tenant that the Private Rented Housing Committee intended to inspect the property on 21 May 2013 at 12 noon. That letter further confirmed that a Hearing had been arranged in relation to the application, which hearing would be held in the Offices of the Private Rented Housing panel at Europa Building, 450 Argyle Street, Glasgow, G2 8LH.

7. On 21 May 2013, the Private Rented Housing Committee attended at the property for the purposes of the inspection of the Property.

In addition to the members of the committee, and the committee clerk, the inspection was attended by the following parties:-

- (a) Miss Maria Holmes (the Tenant);
- (b) Mr Jiwan Singh (the joint Landlord);
- (c) Mr Jaspir Kaur (the joint Landlord);
- (d) Miss Raswinder Singh (the Landlords' daughter); and
- (e) Mr Nadeem Aqbal (a member of staff from 1st Lets).

The inspection

8. At the inspection on 21 May 2013, The Committee noted the following points:-

- (a) the inspection took place on a dry sunny day and it was not possible to form any particular view on the state of repair of the guttering and external pipes at the property.
- (b) the Committee noted that the seal on the double glazed kitchen window appeared to have failed and as a result there was condensation between the panes of the unit.
- (c) the kitchen sink (and the unit in which it was housed) did not appear to be in a reasonable state of repair or in proper working order. The draining board on the sink did not allow water to drain into the sink and as a consequence water was able to pool on that drainer. The work top which houses the kitchen sink was rotten in places and warped.

The bottom section of the unit which houses the cooker in the property was loose.. A board could easily be removed by hand and exposed a number of nails which could potentially cause harm;

- (d) the Committee noted that the live plug socket next to the kitchen sink had been covered over.
- (e) the Committee noted the plug socket adjacent to the oven/cooker appeared to be operating correctly.
- (f) the committee noted that the linoleum flooring in the kitchen had been ripped slightly at a position adjacent to the washing machine.
- (g) the Committee noted that the flooring within the living room had recently been repaired and there did not appear to be any issues with that flooring.
- (h) the Committee noted that the draught excluder/seal around the front door of the property was not properly fixed to the door frame.
- (i) the Committee noted that the common door entry intercom system was operational.
- (j) the Committee noted the wall above the common entrance front door had recently been re-plastered and decorated by the Landlords.
- (k) the Committee noted that the lights within the common entrance had recently been replaced and were working correctly.

- (l) the Committee noted that the door closing mechanism for the common entrance door to the property was not operational as the closing arm was missing.

The Hearing

- 9. The hearing was attended by all the same parties who had previously attended the inspection of the Property.

The Committee went through each of the Tenant's original complaints as stated in her application. It was clear to the Committee (and accepted by all parties) that the Landlords had carried out certain works to the property since the date of the Tenant's application. It was therefore evident that in respect of certain matters of the original complaint, there was no evidence of current failures of the repairing standard. Having heard the parties on each of the outstanding issues, the following points were noted:-

- (a) The Tenant accepted that the guttering and external pipes at the property had recently been repaired and/or been maintained by the Landlords. The Landlords exhibited a contractor's receipted invoice for works which had been recently completed at the Property and which included necessary works for the overhaul of the gutters. The Tenant accepted there was no longer an issue in relation to this item and there was accordingly no current failure of the repairing standard in that respect.
- (b) The Tenant argued that as the seal for the double glazed kitchen window unit had failed, it did not meet the repairing standard as it was not in a proper state of repair or in proper working order. The Landlords indicated that, prior to the Tenant's application, the Tenant had not raised this issue with the Landlords nor had she made any complaint in relation to this matter. No evidence was placed before the Committee which indicated that the Tenant had raised this specific issue with the Landlord prior to the date of her application. In terms of Section 22(3) of the Act, the Committee are not able to consider this part of the Tenant's application, as they are not satisfied that the Tenant had notified the Landlords that this work required to be carried out prior to the date of her application.
- (c) The Tenant and the Landlords accepted that repairs required to be carried out to the kitchen unit which housed the cooker within the property and that it was not currently in a proper state of repair

The Tenant further maintained that the unit which housed the kitchen sink was rotten, and that the kitchen sink itself required to be replaced as it did not have a waste pipe and the draining board itself was warped to such an extent that water did not drain from it in a reasonable manner. The Landlords maintained that the kitchen sink (and the kitchen unit within which it was housed) were in a reasonable state of repair and proper working order.

Having considered the parties' representations on this issue the Committee are not satisfied that the kitchen sink and the unit in which it is housed are in a reasonable state of repair or in proper working order. Water does not drain from the draining board and the draining board is not functional. In addition, the work top which houses the kitchen sink is rotten in places and requires to be repaired and/or renewed.

- (d) The Committee noted that the parties agreed that the live plug socket next to the kitchen sink had now been covered by a qualified electrician. There was accordingly, as at the date of the hearing, no failure of the repairing standard in relation to this issue.
- (e) The Committee noted that the Tenant confirmed that the plug socket adjacent to the oven/cooker was now working and had been tested by an electrician. The Committee were satisfied therefore that, as at the date of the hearing, there was no failure of the repairing standard in relation to that issue.

- (f) The Landlords admitted that the linoleum in the kitchen had been ripped by one of the Landlord's contractors when he was attending to a repair to the boiler in the property. In the course of the hearing, parties agreed that the linoleum had been fitted by the Tenant on entry to the property, with the Landlords' consent. The repairing standard only applies to fixtures, fittings and appliances provided by the Landlords. In these circumstances, as the linoleum was provided by the Tenant, there can be no failure to comply with the repairing standard in this respect.
- (g) The Committee noted that the Tenant confirmed that the Landlords had carried out work to the flooring within the living room and that she now accepted that the flooring was in a reasonable state of repair and proper working order. There was accordingly no failure of the repairing standard in relation to this matter.
- (h) The Committee noted that the seal which had been fitted around the front door of the property was no longer fixed to the door frame in places and was accordingly not in a reasonable state of repair or in proper working order. This was accepted by the Landlords.
- (i) the Committee noted that the Landlords had now arranged for repair of the common entry intercom system insofar as it affects the property and that there was accordingly no failure of the repairing standard in relation to this matter.
- (j) The Committee noted that the Landlords had made arrangements for the area above the common entrance front door to be re-plastered and redecorated. This was accepted by the Tenant. The Tenant accepted that this matter had been repaired and that there was accordingly no failure of the repairing standard in relation to this matter.
- (k) the Committee noted that the lights within the common entrance of the property had been repaired and/or replaced. Accordingly there was no failure of the repairing standard in relation to this matter.
- (l) the Committee noted that the self-closing mechanism for the common entrance of the property was not operating correctly as the door closing arm was missing from the mechanical system. The Landlords accepted that this was the case and agreed that it required to be repaired. In the circumstances, the Committee accepted that it was not currently in a reasonable state of repair or in proper working order and accordingly did not meet the repairing standard.

Decision

- 10. The Committee accordingly determined that the Landlord had failed to comply with the duty imposed by Section 14 (1) (b) of the Act in respect of the issues identified at paragraphs (c), (h) and (l) of section 9, above. The Committee proceeded to make a Repairing Standard Enforcement Order as required by Section 24.1 of the Act.
- 11. The decision of the Committee was unanimous.

Right of Appeal

- 12. **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

13. 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.

A Cowan

Signed
Andrew Cowan, Chairperson

Date 21 May 2013

L McManus

.....Witness
Laura McManus, Secretary, 7 West George Street, Glasgow, G2 1BA