



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

Ref prhp/rp/15/0282

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In respect of an application dated 18 October 2015 lodged in terms of Section 22(1) of the Housing (Scotland) Act 2006 by James McNeil Wilson of 16 Mansfield Park, Kirkhill, Inverness, IV5 7ND ("the Tenants' Representative") on behalf of Joanna Chiang and Natalie Horn residing at that date at 41 Roslea Drive Glasgow G31 2QR ("the Tenants") against Jane Cerexhe or Kelleher ("the Landlord") per her agent, 1 Stop Properties, 491- 493, Duke Street, Glasgow, G31 1DL ("the Landlord's Agents")

Re: 41 Roslea Drive Glasgow G31 2QR ("the Property") registered in the Land Register of Scotland under title number GLA10017

Committee Members

Karen Moore (Chairperson)

Mike Links (Surveyor Member)

NOTICE TO THE LANDLORD

Jane Cerexhe or Kelleher ("the Landlord") per her agent, 1 Stop Properties, 491- 493, Duke Street, Glasgow, G31 1DL ("the Landlord's Agents")

Whereas in terms of their decision dated 15 January 2016, 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 the Property is wind and watertight and in all other respects reasonably fit for human habitation the Private Rented Housing Committee now requires the Landlord to

carry out the following works or other such works as are necessary for the purposes of ensuring that the Property meets the Repairing Standard and that any damage caused by carrying out of the works in terms of the Order is made good.


The Landlord must on or before 29 February 2016:-

1. Ensure that damp proofing works are carried out by a suitably qualified damp proofing contractor to ensure that the rising damp within the Property is eradicated;
2. (a) Instruct an inspection by a licensed asbestos contractor of the artex ceiling in Bedroom 2 of the Property and (b) carry out such works as are found necessary as a result of the inspection;
3. (a) Instruct an inspection by a suitably qualified building or plumbing contractor of both the common downpipe external to bedroom 2 and the penetrating dampness on an internal wall of bedroom 1 of the Property and (b) carry out such works as are found necessary as a result of the inspection and
4. Make good any internal plasterwork and décor damaged or disturbed as result of these works.

A Landlord or a Tenant aggrieved by the decision of the Private Rented Housing Committee may appeal to the Sheriff by summary application within twenty one 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 printed on this and the preceding page are subscribed by Karen Moore, Chairperson, at Glasgow on 15 January 2016 before this witness, Norman William Moore, solicitor, Cumbernauld.

N W Moore  **K Moore**



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

Ref prhp/rp/15/0282

In respect of an application dated 18 October 2015 lodged in terms of Section 22(1) of the Housing (Scotland) Act 2006 by James McNeil Wilson of 16 Mansfield Park, Kirkhill, Inverness, IV5 7ND ("the Tenants' Representative") on behalf of Joanna Chiang and Natalie Horn residing at that date at 41 Roslea Drive Glasgow G31 2QR ("the Tenants") against Jane Cerexhe or Kelleher ("the Landlord") per her agent, 1 Stop Properties, 491- 493, Duke Street, Glasgow, G31 1DL ("the Landlord's Agents")

Re: Property 41 Roslea Drive Glasgow G31 2QR ("the Property")

Committee Members

Karen Moore (Chairperson)

Mike Links (Surveyor Member)

Background

1. By application dated 18 October 2015 ("the Application"), the Tenants' Representative, on behalf of the Tenants, applied to the Private Rented Housing Panel ("the PRHP") for a determination that the Landlord had failed to comply with the duty imposed on her by Section 14 (1) (b) of the Act in respect that the Property does not meet the Repairing Standard in respect of Section 13 (1) (a) of the Act.

2. The president of the PRHP, having considered the application, intimated to the parties by Notice of Referral dated 19 November 2015, a decision under Section 23 (1) of

the Act to refer the Application to a Private Rented Housing Committee, and, in terms of Schedule 2, Paragraph 1 of the Act, fixed an Inspection and Hearing for 6 January 2016 at 2.00 p.m. and 3.00 p.m., respectively.

3. By email sent to the Committee on 25 November 2015, the Landlord's Agents intimated to the Committee that the Landlord, having decided to sell the Property, had given Notice to Quit to the Tenants terminating their tenancy on 8 January 2016 and asking that the Application be cancelled. The Committee responded that only the Tenant could withdraw the Application.

4. By email dated 21 December 2015, the Tenants' Representative intimated to the Committee that the Tenants had vacated the Property but that the Landlord had not accepted return of the keys to the Property. Therefore, as the tenancy had not terminated, the Committee proceeded with the Application.

Inspection and Hearing.

5. The Inspection took place on 6 January 2016 at 2.00 p.m. at the Property. Joanna Chiang of the Tenants and the Tenants' Representative were present at the Inspection. The Landlord's husband, Mr Leigh Kelleher, and Mr. William Jamieson and Ms Wendy Gallagher of the Landlord's Agent were also present at the Inspection. Mr. Graham Harding of the PRHP was present as an observer.

6. The Committee inspected the matters of which the Tenants complained specifically in the Application, namely, dampness to the walls of the hall and both bedrooms and a crack in the bedroom ceiling which potentially exposed asbestos. The Committee took digital photographs at the Inspection which photographs form the Schedule annexed and executed as relative hereto.

7. Following the Inspection, a Hearing was held on 6 January 2016 at 3.00 p.m. at Wellington House, 134-136, Wellington Street, Glasgow. Neither of the Tenants nor Tenants' Representative was present at the Hearing. The Landlord's husband, Mr. Leigh Kelleher, and Mr. William Jamieson and Ms Wendy Gallagher of the Landlord's Agent were also present at the Inspection. Mr. Graham Harding of the PRHP was present as an observer.

8. At the Hearing, Mr. Kelleher advised the Committee that the Landlord was aware of the rising dampness in the bedrooms and in the hall complained of by the Tenants. Mr.

Kelleher advised the Committee that he, on behalf of the Landlord, had instructed a report by dampness specialists in August 2014 which confirmed that there was rising dampness and penetrating dampness caused by blocked down pipes. Mr. Kelleher explained to the Committee that these problems arose from the common property of the block of which the Property forms part, namely the tenement numbered 41, 43 and 45 Roslea Drive, and that the Landlord's co-owners ignored requests to carry out the works necessary to remedy the dampness. Mr. Kelleher advised the Committee that since the Application had been made, he, on behalf of the Landlord, had come to an agreement with the owner of the neighboring ground floor flat to carry out the rising dampness works and that a contractor had been instructed to commence these works on 11 January 2106.

9. With regard to a damp patch at approximately three feet above floor level on the bedroom wall adjacent to the bathroom, Mr. Kelleher explained to the Committee that he was not aware of this and agreed with the Surveyor Member of the Committee that the likely cause of this was a leak from the shower fixed to the adjacent bathroom wall. Mr. Kelleher advised the Committee that the Landlord would instruct this to be investigated.

10. With regard to the dampness in the hall, Mr. Kelleher explained to the Committee that he was not aware of this and advised the Committee that the Landlord would instruct the Contractors dealing with the rising dampness to investigate this.

11. With regard to the crack in bedroom ceiling, Mr. Kelleher and Mr. Jamieson explained to the Committee that this appeared to be a surface crack to the artex finish. Neither Mr. Kelleher nor Mr. Jamieson knew the age of the artex but estimated it to be before 1983.

12. In response to the Surveyor Member of the Committee's questions regarding the extent of the works instructed, Mr. Kelleher produced a copy of the specialist report from August 2014 and confirmed that the works instructed were those recommended in the report and included an underfloor inspection. Mr. Kelleher confirmed that internal plasterwork and decoration would be carried out on completion of the works. Mr. Kelleher accepted that the external common downpipe required to be inspected with a view to repair.

13. Mr. Kelleher and Mr. Jamieson advised the Committee that the Landlord intended to sell the Property and did not intend to re-let it.

Summary of the Issues

14. The issues to be determined by the Committee are whether or not the Property meets the Repairing Standard in respect of Sections 13 (1) (a) of the Act at the date of the Inspection and Hearing and , in particular, whether the Property is wind and watertight and otherwise reasonably fit human habitation.

Findings of Fact

15. Jane Cerexhe or Kelleher is the owner of the Property under title number GLA10017 and Joanna Chiang and Natalie Horn are the tenants of the Property in terms of a tenancy agreement between the parties dated 16 June 2014.

16. The Property is a main door, ground floor flat and forms part of a block of six flats known as and forming 41, 43 and 45 Roslea Drive, Glasgow. The Property comprises two bedrooms, one public room, kitchen and bathroom. The Property appears to be of traditional blonde sandstone construction, estimated to be in the region of around 100 years old or thereby. A front and rear photograph of the Property form part of the Schedule.

17. From the Inspection, the Committee found the following:

- i) There appears to be rising dampness in a corner of bedroom 1 (photographs "Staining in Bedroom " and "meters readings- Bed 1" of the Schedule refer) ;
- ii) There appears to be penetrating dampness on an internal wall of bedroom 1 (photographs "Stain patch in Bed 1 " and "meters readings/high meter readings- Bed 1" of the Schedule refer);
- iii) There appears to be rising dampness in the hall (photograph "high dampness readings in hall" of the Schedule refers);
- iv) There appears to be rising dampness in bedroom 2 (photographs "Stain in Bed 2 " and "high meter readings at stain Bed 2" of the Schedule refer);
- v) There is a crack in the ceiling artex of bedroom 2 and as the artex is of likely age of more than 30 years there is a likelihood that asbestos materials are exposed. (photograph "cracking in artex ceiling in Bed 2" of the Schedule refers);
- vi) The common downpipe external to bedroom 2 appears to be blocked and leaking (photograph "choked downpipe at rear elevation" of the Schedule refers);

18. From the Application, the Committee noted that the Tenants had reported the dampness and ceiling cracks to the Landlords Agent's and that the Tenants were concerned

at the presence of asbestos in the property as a result of the ceiling crack and that the Landlord was aware of the dampness problem in the property but had failed to reach agreement with co-owners to meet the cost of repairs. The Committee also noted that the Landlord intended to sell the Property and had served Notice to Quit on the Tenants.

19. From the Hearing, the Committee found that the Landlord was aware of the rising dampness within the Property, but had failed to address the problem adequately. The Committee found that the Landlord ought to have been aware of the penetrating dampness and the ceiling crack having been notified in writing of these matters by the Tenants but had failed to address the problems. The Committee accepted that the Landlord had instructed works to address the rising dampness.

Decision of the Committee

20. The Committee's decision was based on the Application with supporting documents, the Inspection and on the statements made to the Committee by at the Hearing.

21. In respect of Section 13 (1) (a) of the Act, the Committee found that at the date of the Hearing the Landlord has failed to comply with the duty imposed by Section 14 (1) (b) of the Act, the reason being that the Property is affected by rising and penetrating dampness.

22. The decision is unanimous.

23. The Committee, having determined that the Landlords had failed to comply with the duties imposed by Section 14(1) (b) of the Act proceeded to make a Repairing Standard Enforcement Order as required by Section 24(2) of The Act.

Right of Appeal

24. 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.

25. Where such an appeal is made, the effect of the decision and of any repairing standards enforcement 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 any repairing standards enforcement order will be treated as having effect from the day on which the appeal is abandoned or so determined.

Signed

K Moore

Karen Moore, Chairperson

Date *15 January 2016*

*This is the Schedule of photographs
referred to in the foregoing decision dated*

41 Roslea Drive, Dennistoun, Glasgow G31 2QR *Karen Moore*

PRHP/RP/15/0282 6th January 2016

Schedule of photographs



Front elevation



Rear elevation



Staining in Bed 1.

High

meter readings –Bed 1



Staining in Bed 1



High meter readings – Bed 1



Stain patch Bed 1



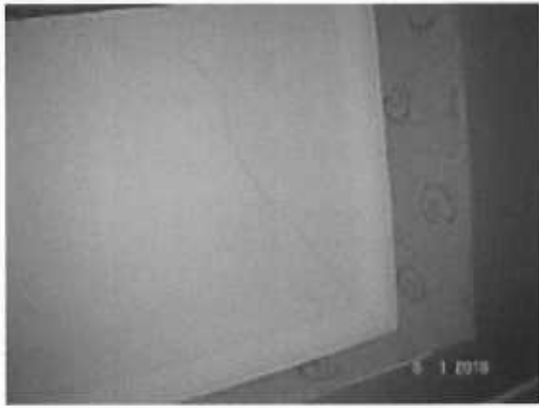
High readings at patch-Bed 1



Stain in Bed 2



High readings at stain in Bed 2



Cracking in artex ceil
In Bed 2



High damp readings in
Hall



Choked downpipe at rear elevation.