

Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

Ref: PRHP/MLI/169/10

Re: Property at 34 Orchard Street, Motherwell, ML1 3JD ("the house")

Title No: LAN186050

The Parties:-

Hazel Matthews, 34 Orchard Street, Motherwell ("the Tenant")

Stefan Ehrendorfer, 67 Avon Street, Motherwell ("the Landlord")

NOTICE TO Stefan Ehrendorfer, 67 Avon Street, Motherwell ("the Landlord")

Whereas in terms of their decision dated 25th January 2011, the Private Rented Housing 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:-

- (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 - Section 13(1)(c) of the Act.
- (3) The house has a satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire - Section 13(1)(f) of the Act.

the Private Rented Housing Committee now requires the landlord 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 the works in terms of this order is made good.

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

- To carry out such works as are necessary to provide effective and functioning light fittings in the side bedroom and kitchen .
- To produce an Electrical Safety Certificate.
- To affix a ceiling rose to the ceiling light in the computer room.
- To carry out such works as are necessary to ensure -
 - (a) the bathroom door and (b) computer room door fit their frames and open and close in the proper manner
- To repair, replace or adjust the external door from the porch to the garden to ensure the door fits the frame.
- To repair, replace or adjust the door from the porch into the kitchen to ensure the door fits its frame, is rendered weatherproof and is capable of being locked.
- To provide a hard wired smoke alarm as required by Statute.


The Private Rented Housing Committee order that the work specified in this Order must be carried out and completed within a period of **eight 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 Seventh day of February Two Thousand and Eleven before Murdoch McCamley, Chartered Accountant, Osborne House, Osborne Terrace, Edinburgh.

M McCamley

(witness) 

A McCamley

Chairman 
PRHP.

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

Ref: PRHP/MLI/169/10

Re: Property at 34 Orchard Street, Motherwell, ML1 3JD ("the house")

Title No: LAN186050

The Parties:-

Hazel Matthews, 34 Orchard Street, Motherwell ("the Tenant")

Stefan Ehrendorfer, 67 Avon Street, Motherwell ("the Landlord")

Decision

The Committee, having made such enquiry as it sees fit for the purposes of determining whether the Landlord has complied with the duty imposed by Section 14(1)(b) in relation to the house concerned, and taking account of the whole written evidence and the evidence led by both the Landlord and the Tenant at the Hearing, determined that the Landlord has failed to comply with the duty imposed by Section 14(1)(b) of the Act.

Background

1. By application dated 18th November 2010 the Tenant applied to the Private Rented Housing Panel for a determination of whether the Landlord 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 Tenant stated the Tenant considers that the Landlord had failed to comply with his duty to ensure the house meets the repairing standard and the Tenant brought forward the following alleged breaches:-
 - (a) No chimney cowlings
 - (b) No smoke detector
 - (c) A central heating radiator in the dining room requires to be fitted
 - (d) The external doors not wind or watertight
 - (e) Internal doors not safe due to absence of safety glass. The doors are also ill fitting
 - (f) Lights in hall, bedroom and kitchen are faulty
3. The Private Rented Housing Committee served Notice of Referral dated 26th November 2010 under and in terms of Schedule 2, Paragraph 1 of the Act on both the Landlord and the Tenant.
4. The Private Rented Housing Committee comprising Mrs. Anne McCamley, Chairman, Mr. Alan English, Surveyor and Mr. Scott Campbell, Housing Member inspected the property on the morning of the 25th of January 2011. The Committee was accompanied by their Clerk, Mr. Robert Shea. Both Landlord and Tenant had been invited to attend the inspection at 10.00 a.m. The Tenant is resident in the property and was at home. The Landlord telephoned the Private Rented Housing Panel offices at 9.55 a.m. to say he was on his way. As he had not attended by 10.25 a.m. the Committee inspected the property in his absence. The Landlord arrived at 10.45 a.m. by which time the inspection had concluded. Throughout the inspection the Committee was guided by their surveyor Member, Mr. English.
5. Following the inspection the Private Rented Housing Committee held a Hearing at The Moorings Hotel in Motherwell. Both parties attended the

Hearing, neither party was represented.

6. The Tenant submitted her main concern related to "the electrics". The upstairs and downstairs hall lights operate on one switch so that both lights are either on or off. They cannot be isolated. The ceiling light in the side bedroom and the strip lighting in the kitchen don't work. The master bedroom has a light switch but no provision for a central light. The computer room ceiling light works but the rose fitment has not been secured to the ceiling resulting in exposed wiring. There are electricity cables in the hall cupboard which are inoperative. The lighting cord is old.

Also of concern are the external and internal doors of the house. The porch door doesn't fit and doesn't lock. The kitchen door doesn't fit either and it is a struggle to lock it. Neither of these doors are weatherproof. The internal glass doors are not made of safety glass although they have not cracked. The bathroom door and the door to the computer room are ill fitting and don't close effectively.

There is no smoke detector in the house.

The chimneys do not have cowls.

The radiator in the dining room has now been fitted by the tenant.

7. The Landlord acknowledged there are some problems with the light fittings. As regards the doors the Landlord confirmed he was aware the computer room door and the bathroom door were ill fitting. While acknowledging safety glass might be desirable he explained it was too expensive an improvement for him to make at this time. He felt the Tenant could solve the problem at the back doors by using easily obtainable draught excluders. He acknowledged there were no smoke alarms and he acknowledged that there were no cowls on the chimneys.
8. For reasons which do not concern this Committee it appears relations have

broken down between the Landlord and the Tenant.

Facts and Reasons

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

(a) During the course of our inspection it was demonstrated that the lights in the kitchen and side bedroom do not work when operated via the main switch. The central light in the computer room does not have a secure ceiling rose and the wiring is exposed. As a result of the foregoing failures we find the Landlord in breach of Section 13(1)(c).

We accept the hall light is in proper working order. Neither the cables under the stair nor the lack of ceiling light in the master bedroom are of relevance in terms of the repairing standard.

(b) During the course of our inspection we saw

- (i) the bathroom door and the door to the computer room are ill fitting and do not open or close easily.
- (ii) the door from the porch into the kitchen does not fit the frame and is not windproof. The lock does not operate effectively.
- (iii) The external back door from the porch to the back garden does not fit the frame and does not lock.

Accordingly we find the Landlord is in breach of the repairing standard Section 13(1) (b).

We considered the Tenant's submission regarding the glass doors however having regard to the age and character of the house we are satisfied those

glass doors are in a reasonable state of repair and proper working order.

The tenant complained that the central heating system does not function properly but at the time of the inspection the heating was working and the control panel lights were illuminated. In the opinion of the Committee the system satisfies the Repairing Standard.

The lack of chimney cowling is not relevant in terms of the repairing Standard

We are satisfied the porch is not designed as a completely weatherproof structure .

10. It is a matter of agreement between the parties and it was self evident at the inspection that the house does not have a smoke alarm. This is in breach of the repairing standard Section 13(1)(f).

Decision

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

Right of Appeal

14. **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

15. 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 McCamley

Signed .

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Date 25/1/11