



REPAIRING STANDARD ENFORCEMENT ORDER

BY THE

PRIVATE RENTED HOUSING COMMITTEE

PRHP Reference: prhp/G76/139/12

PROPERTY

69 Gallowhill Road, Carmunnock, Glasgow G76 9DQ, registered in the Land Register for Scotland under title number LAN113399

PARTIES

Leanne Lonsdale, residing at the property.

Tenant

and

Robert Gunn and Mrs Ellen Gunn, per Perfect Home UK Ltd., Sales & Letting Agents, 435 Victoria Road, Glasgow G42 8RW .

Landlord

1. **WHEREAS** in terms of their decision dated 4 October 2012 the Private Rented Housing Committee ('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 ('the Act') and in particular the property fails to meet the repairing standard as set out in section 13(1) of the Act.

2. The Committee now requires the Landlord to carry out such work as is required to ensure the property meets the repairing standard and that any damage caused as a consequence of carrying out of any works in terms of this Order is also to be made good before the expiry of the Completion Date.

THE ORDER

3. In particular, and without prejudice to the foregoing generality, the Committee **HEREBY ORDERS** the Landlord to carry out the following repairs ('the Works');-
 1. To monitor the repairs recently carried out to the flat roof over the entrance hall and stairwell to the property and to carry out any further work which may be required in the event that the roof repair is not fully effective.
 2. To carry out such work as is necessary to dry out the walls and ceiling in the entrance hall and stairwell and thereafter to repair the plasterwork and redecorate as necessary.
4. The Committee **HEREBY FURTHER ORDERS** that the Works specified in this Order must be carried out and the certificates delivered to the Committee before the **Completion Date** of eight weeks from the date of service of this Order.

RIGHT OF APPEAL

5. A Landlord or Tenant has the right to appeal this decision to the Sheriff by summary application within 21 days of being notified of that decision.

EFFECT OF APPEAL

6. In terms of section 63 of the Act, where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally

determined by confirming the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined **IN WITNESS WHEREOF** these presents consisting of this and the preceding pages are subscribed as follows:-

D Preston
..... Chairman

Lochnagar ^{Place} **Date of Signing**

8.10.12 ^{DATE} **Place of Signing**

K Graham
..... Witness

Kenneth Graham **Name**

25 Wilmshurst Drive **Address**

Beaconsfield

G61 4BH



PRIVATE RENTED HOUSING COMMITTEE

STATEMENT OF DECISION OF THE PRIVATE RENTED HOUSING COMMITTEE UNDER RULE 26(1)) OF THE PRIVATE RENTED HOUSING PANEL (APPLICATIONS AND DETERMINATIONS)(SCOTLAND) REGULATIONS 2007

In connection with

PROPERTY

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Landlord

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Decision

The Committee, having made such enquiries as is fit for the purposes of determining whether the Landlord has complied with the duty imposed by Section 14 (1)(b) in relation to the property, and taking account of the representations by both the Tenant and the Landlord, determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 (hereinafter referred to as "the Act").

Background

1. By application dated 26 July 2012 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 that she considered that the Landlord had failed to comply with his duty to ensure that the house meets the repairing standard and in particular that the Landlord had failed to ensure that:-
 - The house is wind and watertight and in all other respects reasonably fit for human habitation
 - The structure and exterior of the house (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working orderin terms of section 13 of the Act.
3. In particular the Tenant complained that the felt roof over the entrance stairway had been damaged by storms in May 2011 and necessary repairs had not been carried out. During heavy rain, water penetrated the stairway leaving puddles on the stairs and in the entrance. Due to the level of dampness in the stairway, cracks had appeared and there was extensive mould and fungus in the form of mushrooms on the walls and ceilings.
4. By Notice of Referral dated 1 August 2012 the President of the Private Rented Housing Panel ("the President") intimated a decision to refer the application under Section 22 (1) of the Act to a Private Rented Housing Committee ("the Committee).

The Committee comprised the following members:

Mr. David M Preston, Legal Member
Mr. Mike Links, Surveyor Member

5. On 7 September 2012, the Committee served Notification of Inspection and Hearing under and in terms of Schedule 2, Paragraph 1 of the Act on the Landlord advising that an Inspection and hearing would take place on 4 October 2012 at 10.00 with a Hearing thereafter.
6. The Committee inspected the Property on the morning of 4 October 2012. Mr Gunn, representing the Landlords and the Tenant were present throughout the inspection.
7. Following the inspection a hearing was held at the offices of PRHP at which the Tenant along with a friend, Mr John Milligan, and Mr Gunn on behalf of the Landlord were present throughout.
8. In addition to the Inspection, the Committee considered the application and accompanying papers as well as the parties' representations at the Hearing. Neither party had submitted written representations.

Summary of issues

9. The issue to be determined was whether the property meets the repairing standard as laid down in Section 13 of the Act and whether the Landlord had complied with the duty imposed by Section 14(1)(b).

Findings in Fact

10. The Committee finds the following facts to be established:-

- 10.1. The Tenant entered into a lease with the Landlord for the rent of the property in or about October 2008. a copy of the Lease had been produced with the application. This is an assured lease under the Housing (Scotland) Act 1988. The provisions in Chapter 4 of the Act apply.
- 10.2. The Tenant had duly notified the Landlord of the required works to the property as required by the Act.
- 10.3. The property is a first floor flat in a block of four. As the application referred specifically to the problem in the entrance hall and stairway, the inspection was confined to that area. The house is not a listed building.

11. The inspection revealed:

- 1) There was extensive mould and fungal growth evident on the walls and ceilings of the stairwell. Maximum damp readings were obtained at a number of locations on the wall when tested.
 - 2) From an external examination, it appeared that work had been carried out to the flat felt roof over the stairwell and entrance area.
12. At the Hearing, representations were made by both parties. The Tenant indicated that she had reported the problem on a number of occasions over the past 17 months. A tarpaulin had been laid down as a temporary measure but had failed to resolve the problem. On one occasion a contractor had told her that he was going to install a false ceiling. The Tenant had refused to allow this as she felt that it would not resolve the problem. She confirmed that contractors had appeared about three weeks ago and had carried out repairs to the roof. She was unable to confirm whether the repairs had resolved the issue as there had not been continuous or excessive rain since the work had been done.
13. The Landlord said that he had engaged a number of contractors who had been unable to gain access to the property and that he had instructed one of them to tidy up the stairwell before dealing with the insurers in relation to the problem, but the Tenant had refused. He complained that the contractors had been unable to gain access to the property, although he accepted that no actual appointments had been made and they had merely called in when passing. He confirmed that he had instructed the works to be carried out externally, which had now been done.

Reasons for the decision

14. The condition of the stairwell area of the property indicated that it suffered from significant dampness and water ingress resulting in fungal growth and mould. It was clear to the Committee that the property had failed to meet the repairing standard as it had not been wind and watertight before the work had been carried out. Whether that position had changed could not be determined until the interior had dried out and the roof tested by rain.
15. The Committee accepted that work had been carried out to the roof which would hopefully resolve the problem but it was not possible at the date of the inspection and hearing to determine whether this was the case.

16. In any event, the internal walls require drying out and redecoration. The Committee determined that the presence of mould and fungal growth means that the house falls below the repairing standard.

Decision

17. The Committee accordingly determined that the Landlord had failed to comply with the duty imposed by Section 14(1)(b) of the Act.

18. The Committee proceeded to make a Repairing Standard Enforcement Order as required by section 24(1) of the Act.

19. The decision of the Committee was unanimous.

Right of Appeal

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

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.

D Preston

Signed Chairperson

Date... 8.10.12