



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

PRHP Reference: PRHP/ RP/14/0053

Property at 3E Court Street, Dundee, DD3 7QR ("the property")

The Parties

Ms Barbara Gibson, residing at 3 t/1 Court Street, Dundee, DD3 7QR ("the tenant")

Rizvan Aboobaker, residing at 211A Albert Street, Dundee, DD4 6QA ("the landlord")

NOTICE TO Rizvan Aboobaker, residing at 211A Albert Street, Dundee, DD4 6QA ("the landlord")

Whereas in terms of their decision dated 2nd June 2014, 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 that:-

- (a) The house is wind and water tight and in all other respects, reasonably fit for human habitation.
- (b) The furnishings provided by the landlord under the tenancy are capable of being used safely for the purpose for which they are designed.
- (c) The installations in the house for the supply of water, electricity and for space heating are in a reasonable state of repair and in proper working order
- (d) The 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 work as is 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 landlord:-

- (a) To obtain and exhibit an updated and satisfactory gas safety certificate by a Gas Safe registered engineer.
- (b) To repair or replace the windows throughout the property to render them wind and watertight, in a reasonable state of repair and capable of being opened and closed safely.
- (c) To carry out all necessary repairs to the electric installations serving the property, and then obtain and exhibit a satisfactory electrical safety certificate from a registered NICEIC contractor.
- (d) To repair, refit or replace the floor covering in the bathroom.
- (e) To repair, refit or replace a waterproof seal around the bath edge.
- (f) To repair, refit or replace the damaged & defective bath panels.
- (g) To repair, refit or replace the pedestal below the wash hand basin in the bathroom.
- (h) To fit a suitable shower screen separating the shower area of the bath from the bathroom window.
- (i) To repair, refit or replace the shower hose.

The Private Rented Housing Committee order that the works specified in this Order must be carried out and completed within the period of four 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 type written on this and the preceding page are executed by Paul Doyle, solicitor, 24 Haddington Place, Edinburgh, chairperson of the Private Rented Housing Committee, at Edinburgh on 2nd June 2014 before Kirsten Boettcher, secretary, 24 Haddington Place, Edinburgh

____ K Boettcher _____ witness

P Doyle
_____ chairman

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

PRHP Reference: PRHP/ RP/14/0053

Property at 3E Court Street, Dundee, DD3 7QR ("the property")

The Parties

Ms Barbara Gibson, residing at 3 t/1 Court Street, Dundee, DD3 7QR ("the tenant")

Rizvan Aboobaker, residing at 211A Albert Street, Dundee, DD4 6QA ("the landlord")

The Decision

The Committee, having made such enquiries as it saw fit for the purposes of determining whether the Landlord has complied with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 in relation to the house concerned, and taking account of the evidence led by both the Landlord and the Tenants 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 24 February 2014, 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 the tenant 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:

- (a) The house is wind and water tight and in all other respects, reasonably fit for human habitation.
- (a) The furnishings provided by the landlord under the tenancy are capable of being used safely for the purpose for which they are designed.
 - (c) The installations in the house for the supply of water, electricity and for space heating are in a reasonable state of repair and in proper working order
 - (d) The fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order

- 3 By letter dated 10 March 2014, 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. The Committee consisted of:
- | | |
|---------------|-----------------|
| Paul Doyle | Chairperson |
| Robert Buchan | Surveyor Member |
| Michael Scott | Housing Member |
- 4 The Private Rented Housing Committee served notice of referral under and in terms of Schedule 2, paragraph 1 of the Act upon both the landlord and the tenant.
- 5 Following service of the notice of referral, further representations (dated 28 March 2014) were made on behalf of the tenant. The landlord made further representations in letters dated 27 March 2014 & 13 May 2014.
- 6 The Private Rented Housing Committee inspected the property on the morning of 22 May 2014. The tenant was present. The landlord was not present during the inspection.
- 7 Following the inspection of the property, the Private Rented Housing Committee held a hearing at Dundee and heard from Lesley McCall, a social worker from Dundee City Council who represented the tenant. The landlord was neither present nor represented. The case file reveals that both the tenant and the landlord had been given timeous intimation of both the time, date and place of the inspection and the time, date and place of the hearing. No application was made to adjourn the hearing. The committee was satisfied that it could justly determine this case in the absence of the parties.
- 8 The tenant's position is that the property does not meet the repairing standards in several respects and that the landlord only paid attention to the tenant's complaint once the tenant's application to the Private Rented Housing Panel had been submitted. The tenant originally complained: (i) that the gas fire had been removed from the living room, left on the landing immediately outside the door of the property and that removal of the gas fire had left a large, open fireplace which made heating the property difficult; (ii) that there were various electrical faults throughout the property; (iii) that the windows throughout the property are defective, sealed shut and ill-fitting; (iv) that there are defects in the sanitary ware in the bathroom, and (v) that there was inadequate provision for heating the property and inadequate provision for hot water.
- 9 The landlord declares that all necessary repairs have been attended to. In his letter of 13 May 2014, the landlord states that he has:
- replaced the lights in the hall and the bathroom,
 - replaced the bath panels,
 - blocked up the open fireplace

- inserted a new kitchen window
- refitted the wash hand basin pedestal in the bathroom
- fixed a new cover on the flue
- ensured the provision of hot water by explaining the operation of the combi boiler to the tenant

10 The issues to be determined are:

- (a) Is the house wind and water tight and in all other respects, reasonably fit for human habitation?
- (a) Are the furnishings provided by the landlord under the tenancy capable of being used safely for the purpose for which they are designed?
- (c) Are the installations in the house for the supply of water, electricity and for space heating in a reasonable state of repair and in proper working order?
- (d) Are the fixtures, fittings and appliances provided by the landlord under the tenancy in a reasonable state of repair and in proper working order?

Findings in Fact

11 (a) The landlord trades as Baker Bradley Property Management, 211A Albert Street, Dundee. On 14 March 2011, the landlord agreed to let to the tenant the property which is the subject matter of this application. A lease was entered into between the parties and a short assured tenancy (in terms of Section 32 of the Housing (Scotland) Act 1988) was created. The landlord's obligations contained in that lease are consistent with the landlord's duties to repair and maintain the property in terms of Sections 13 and 14 of the 2006 Act.

(b) The property forms a second floor flatted dwelling-house in a traditional three storey end terraced tenement block, built in or around 1900, entering by a common passage and stair. The accommodation offered by the property is on one level. There is a living room, kitchen, bathroom and two bedrooms. Each room is entered from an internal hallway.

(c) On 13 January 2014, there was a fire within the property. The Fire Brigade attended and extinguished the fire, but found that all of the windows in the property had been sealed with a silicone sealant and could not be opened. The property is occupied by the tenant and her two young children. Because the fire officer was concerned about the safety of the tenant and her two young children, a referral was made to Dundee City Council Social Work Department.

(d) On 17 January 2014, an enforcement officer from Dundee City Council emailed the landlord, expressing various concerns about the condition of the property. In response, the landlord exhibited to Dundee City Council Social Work Department a document which appears to be a landlord's gas safety certificate, issued in February 2014. An enforcement officer from Dundee City Council attempted to speak to the gas engineer who appears to have signed that certificate, but was unable to do so.

(e) The living room to this property has windows overlooking the street at the front of the larger tenement block. The two living room windows are fitted with double glazed units. The units are in poor condition. One of the window units is broken. A broken part of the window frame is resting on the exterior window sill (directly above the public pavement outside the larger building of which this property forms part).

(f) There is a significant gap between the window and the window frame (even when fully closed) in the living room. The tenant has tried to prevent draughts by fitting towels into the gap - but the temporary measures adopted by the tenant have been wholly ineffective. As a result of the gap between the window and the window frame, the property is neither wind nor water tight.

(g) The living room of this property has a large fireplace. A gas fire used to stand in the fireplace but was removed some months ago. The fireplace has been blocked up by a sheet of plasterboard. At inspection, it was not possible for committee members to be certain that the gas supply to the gas fire which had stood in the fireplace has been properly capped.

(h) The property has a gas combi boiler which provides hot water which serves the bathroom in this property.

(i) The bathroom is in a poor state of repair. The bath is fitted against the interior of the gable end wall, and below a full size window. The window is old, ill-fitting and past its useful life. It is sealed shut with silicone sealant, but the window unit no longer fits the window aperture properly, so that the bathroom is plagued by significant draughts. The gaps created by the ill-fitting window results in wind and water ingress.

(j) The bathroom has a three piece sanitary suite. One bath panel has a hole in it.

(k) There is an electric "instant" shower fitted above the bath. The shower hose is defective. The exterior cover of the shower hose no longer fits properly. The shower hose leaks water when in use.

(l) There is a seal between the bath unit and the wall. The seal is not tight to the wall and it can be expected that water will leak down the back of the bath.

(m) The wash hand basin in the bathroom has a pedestal below it. The pedestal does not fit and does not connect with the wash hand basin. The wash hand basin is not supported by the pedestal and is fixed to the wall by other means.

(n) The floor of the bathroom is covered in a vinyl flooring material. The material is tired and worn. It is raised in areas (particularly around the wash hand basin) to such an extent that it is likely to cause someone to trip or stumble.

(o) Although there is a curtain obscuring the bathroom window and separating the window from the shower area of the bath, it is not a waterproof shower curtain. It is, in reality, simply a piece of dark material.

(p) The kitchen is situated to the rear of the property. The window of the kitchen opens and closes, however the seal around the window is loose.

(q) The combi boiler is situated in the kitchen. There is a flue leading from the combi boiler through the outside wall to the rear of the property. An effective seal has recently been placed there.

(r) There is a bedroom overlooking the rear of the property. The bedroom window has been sealed with silicone. The window unit is tired and past its useful life. It no longer fits into the window aperture properly.

(s) There is a light fitting in the centre of the ceiling in the bedroom to the rear of the property. The light fitting and the wiring is dated. The light fitting is broken and cannot properly hold a light bulb.

(t) The wiring and fittings throughout the property are obviously of some age.

Reasons for Decision

12 (a) The inspection of this property took place during the morning of 22 May 2014. The tenant was present and was accompanied by Ms Lesley McCall, a social worker from Dundee City Council. The landlord was not present and had written in advance to state that he did not intend to come.

(b) Committee members inspected both the exterior and the interior of the property. Committee members were taken to the living room of the property, and shown a large fireplace, the opening of which had been covered by a sheet of plasterboard. The plasterboard panel is not sealed around the edges. It is clear from what the committee were told by the tenant and what is disclosed in the representations of the landlord that a gas fire once stood there, but had been removed 8 or 9 weeks prior to the inspection. It is common ground that the heating appliance had been served by gas. From the inspection, the committee could not be satisfied that the gas supply had been capped. Committee members therefore take the view that there are grounds for concern about the quality and standard of the gas system serving the property and that it is necessary for a gas safe registered engineer to inspect the gas supply, and the landlord should obtain a satisfactory gas safety certificate dated after the date of this decision.

(c) Committee members inspected the two window fittings serving the living room and were surprised by the poor condition of the windows and their units. The landlord's letter of 26 March 2014, states "*this is to confirm that all works required in the above property have now been carried out apart from the windows*". One of the window units in the living room does not close properly and leaves a significant gap, which the tenant has tried to deal with by jamming towels into the gap. Despite the tenant's efforts, there is a significant draught from the window. It was obvious to committee members that a section of the window frame had broken and was resting on the window sill - which sits two storeys above the public street below this property. The window units in the living room are defective and probably beyond

repair. They are not wind or watertight, they are not in a state of reasonable repair and they cannot be opened and closed safely.

(d) Committee members inspected the bathroom in this property. The bathroom contains a three piece sanitary suite. It has one ordinary (non-frosted) window above the bath. Once again, the window fitting is not wind or watertight without the use of silicone sealant which then prevents the window from being opened and closed. Accordingly, the window is not in a reasonable state of repair and cannot be opened and closed safely. The bath sits immediately below the window and is only separated from the window by a piece of fabric serving as a curtain. The shower unit is fixed to the wall adjacent to the window. There is no waterproof item separating the shower area of the bath from the bathroom window. Committee members took the view that a waterproof screen was necessary to separate the shower unit from the window. The use of a waterproof curtain might contain the spray of water from the use of the shower, but for reasons of safety, a waterproof shower screen should be fitted to separate the shower area of the bath from the window.

(e) The floor of the bathroom is covered in a vinyl flooring material. In parts of the bathroom, the vinyl flooring material is uneven and raised, and creates a hazard because it has the potential to cause a bathroom user to trip and fall.

(f) The bath has a seal along the areas adjacent to two walls of the bathroom. The seal is defective. It is coming away from the wall and allows water to seep down the wall and below the bath surface.

(g) The wash hand basin is fixed to the interior of the gable end wall. It has a pedestal below the basin unit, but the pedestal is not attached to the wash hand basin. It sits at an angle and does not fit. It is the wrong size for the wash hand basin. It is not safe and requires to be replaced.

(h) Committee members inspected the "instant" shower unit situated over the bath. The hose serving the shower head is manifestly defective. It leaks; the fitting is incomplete and requires to be replaced.

(i) Committee members inspected the bath panels. It is the landlord's position that new bath panels have been fitted. One new bath panel has been fitted. It has been fitted poorly and is slightly loose. The bath panel along the end of the bath is not fitted properly and has a hole in it.

(j) There is a bedroom overlooking the rear of the property. The window in that room is of the same vintage as the windows serving the living room and the bathroom. The window halves no longer sit square within the aperture and can only be made wind and watertight by sealing the frames which then prevents the window from being opened and closed. The window could not be opened at the time of inspection. The window units in the living room, bathroom and bedroom to the rear of the property require to be either repaired or replaced to make them wind and watertight and to allow them to be opened and closed safely, allowing ventilation of the property without risk.

(k) The electrical wiring throughout the property is obviously old, as are some of the fittings including the fuse box. The main light unit extended from the centre ceiling of the bedroom to the rear of the property has wiring (the cover of which is) yellowed by age; the bulb socket is broken and cannot retain a light bulb. Committee members were concerned that the observations revealed old wiring throughout the property with plastic covering which had yellowed, bearing the patina of age. The tenant reports concerns about the electricity installation. The landlord has carried out some improvement but the committee still has concerns about the installation and take the view that the landlord should obtain a satisfactory report from a registered NICEIC (National Inspection Council for Electrical Installation Contracting) contractor on the adequacy and safety of the electrical installation and appliances dated after the date of this decision.

(l) The tenant expressed concerns about the kitchen window. In his letter of 13 May 2014, the landlord listed amongst the works carried out "*new kitchen window*". On inspection, committee members were able to see that a new kitchen window has been fitted, but it has not been fitted properly. The window unit opens and closes satisfactorily but the interior seal around the window has not been fitted properly. Repairs are required to complete the fitting of the new kitchen window.

(m) The tenant conceded that certain works had been carried out. The tenant had initially complained that the flue in the kitchen (serving the boiler) simply went through a hole in the wall and was not properly sealed. A new properly fitted seal has been placed around the flue. Committee members were able to see that the opening for the flue had been properly sealed.

(n) The tenant had originally complained that she did not have hot water in which to bathe. The landlord explains that he has shown the tenant how to use the combi boiler to obtain hot water. Both the tenant and Ms McCall confirmed to us that there is now an adequate supply of hot water in the bathroom.

(o) The committee was not given access to the front bedroom at the time of inspection. Although the tenant advises that the window in this room is satisfactory, it can be seen externally to be the same age and type as the existing windows in the living room, rear bedroom and bathroom.

Decision

13 The committee accordingly determined that the landlord has failed to comply with the duty imposed by Section 14(1)(b) of the Act.

14 The committee proceeds to make a repairing standard enforcement order, as required by Section 24(1) of the Act.

15. The decision of the Committee was unanimous.

Right of Appeal

15. 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

16. 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....
Chairperson

P Doyle

May 2014