



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

Ref: PRHP/RP/14/0078

Re property at: Flat 3/2, 40 Wellmeadow Street, Paisley, PA1 2EG, being the right hand flat on the third floor or top floor of the tenement 40 Wellmeadow Street, Paisley and being the subjects registered in the Land Register of Scotland under Title Number REN97359 ("the Property")

The Parties:-

Mr Szymon Sikorski, residing at Flat 3/2, 40 Wellmeadow Street, Paisley, PA1 2EG ("the Tenant")

And

Suzy Mandeep Kaur Sandhu, per her agents, Castle Residential, having their place of business at 63 Causeyside Street, Paisley, PA1 1YT ("the Landlord")

NOTICE TO

Suzy Mandeep Kaur Sandhu, per her agents, Castle Residential, having their place of business at 63 Causeyside Street, Paisley, PA1 1YT ("the Landlord")

Whereas in terms of their decision dated 2 September 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 ("The Act") and in particular that the landlord has failed to ensure that 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.

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 to carry out such works as are necessary to repair and/or renew the guttering at the property within a period of 6 weeks and to further ensure that there is action taken to repair the mould growth on the second floor of the common stairway within the property;

The Private Rented Housing Committee order that the works specified in this Order must be carried out and completed within the period of 6 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.

Please note that in terms of section 28(1) of the Act, a landlord who, without reasonable excuse, fails to comply with a RSEO commits an offence liable on summary conviction to a fine not exceeding level 3 on the standard scale. A landlord (and that includes any landlord's successor in title) also commits an offence if he or she enters into a tenancy or occupancy arrangement in relation to a house at any time during which a RSEO has effect in relation to the house. This is in terms of Section 28(5) of the Act.

In witness whereof these presents type written on this page and the preceding page are executed by Andrew Cowan, chairperson of the Private Rented Housing Committee at Glasgow on 2 September 2014 before this witness:-

Signed . **A Cowan**

Date 2 September 2014

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 24 (1) of the Housing (Scotland) Act 2006

Ref: PRHP/RP/14/0078

Re property at: Flat 3/2, 40 Wellmeadow Street, Paisley, PA1 2EG, being the right hand flat on the third floor or top floor of the tenement 40 Wellmeadow Street, Paisley and being the subjects registered in the Land Register of Scotland under Title Number REN97359 ("the Property")

The Parties:-

Mr Szymon Sikorski, residing at Flat 3/2, 40 Wellmeadow Street, Paisley, PA1 2EG ("the Tenant")

And

Suzy Mandeep Kaur Sandhu, per her agents, Castle Residential, having their place of business at 63 Causeyside Street, Paisley, PA1 1YT ("the Landlord")

Decision

The Committee, having made such enquiries as it saw fit for the purpose of determining whether the Landlord has 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 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.

The Committee consisted of:-

Mr Andrew Cowan	-	Chairperson
Mr Mike Links	-	Surveyor member
Ms Susan Brown	-	Housing member

Background

1. By application dated 14 March 2014, The Tenant applied to the Private Rented Housing Panel for a determination as to whether the Landlord 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 Landlord had failed to comply with her duty to ensure that the house meets the repairing standard and the Tenant brought forward the following alleged breaches:-

- (a) the Tenant maintains that the property is not wind tight. In particular, the Tenant avers that the window in the kitchen does not close properly and the window in the front/living room is not wind tight;
 - (b) the Tenant maintains that the gutters to the exterior of the property are not in a reasonable state of repair, and require renewal or repair. The Tenant further avers that as a consequence of the failure of the Landlord to properly maintain the gutters at the property, the common stair area within the property has been subject to dampness and that an area of mould has grown on the wall of the common stair on the second floor of the tenement property;
 - (c) the Tenant maintains that the boiler within the property (being an installation in the house for the supply of space heating and heating water), is not in a reasonable state of repair or in proper working order;
 - (d) the Tenant maintains that the door entry system to the property (being a fixture and/or appliance provided by the Landlord under the tenancy), is not operational and is accordingly not in a reasonable state of repair or in proper working order; and
 - (e) the Tenant maintains that there are no operational smoke alarms within the property and that accordingly the property does not have satisfactory provision for detecting fires and for giving warnings in the event of fire or suspected fire. The Tenant further maintains that the Landlord has failed to supply a Co2 detector for the duration of the tenancy.
3. In light of these complaints, the Tenant considered that the Landlord 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 in 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;
 - (c) 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;
 - (d) any fixtures, fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order; and
 - (e) that the property has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.
4. By letter dated 11 June 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.
5. By letter dated 5th August 2014, the Private Rented Housing Committee advised both the Landlord and the Tenant that the Private Rented Housing Committee intended to inspect the property on 26 August 2014 at 10am. 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. Parties were advised that the hearing would be held at 11am on 26 August 2014.

6. On 26 August 2014, 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, the inspection was attended by the following parties:-

- (a) Miss Gemma McFarlane (Maintenance Manager, Castle Residential, Letting Agents);
- (b) Ms Jacqueline McLelland (Castle Residential, Letting Agents);
- (c) Ms Kate MacLennan (the Tenant's representative);

The Inspection

7. At the inspection on 26 August 2014, The Committee noted the following points:-

- (a) the Committee examined the velux kitchen window and the dormer window in the living room of the property. Although there was a breeze outside the property, the Committee were not able to detect any significant draughts through either of these windows when they were closed. The Committee could not identify any significant issue of disrepair with either of these windows;
- (b) the inspection took place on a dry sunny day. It was possible to observe from ground level that the guttering at the front and rear of the property are in need of maintenance and/or repair. There was evidence of extensive vegetation growth from the gutters and in addition, the Committee noted that there was damp staining on the rear external wall of the property which was consistent with a failed gutter immediately above that point;
- (c) On the second floor of the common staircase within the property, the Committee noted that there was evidence of damp mould growing on one of the walls of the common staircase at the second floor. The sight of this particular damp area was adjacent to the damp external area which the Committee had noted on the external rear elevation of the property;
- (d) the Committee noted that the door entry system to the property was now operational;

The Hearing And Consideration of Evidence

8. The hearing was attended by all the same parties who had previously attended the inspection of the Property. The Tenant did not attend the hearing.

The Committee went through each of the Tenant's original complaints as stated in his application. It was clear to the Committee (and accepted by all parties) that the Landlord 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 application, there was no evidence of current failures of the repairing standard.

Having heard the parties' evidence in relation to the issues raised by the Tenant in his application, the following points were noted:-

- (a) that since the date of the Tenant's application, the Landlord had instructed some further minor works to be carried out to the windows at the property. These works were carried out on or around 27 March 2014 when the front windows of the property had been maintained to improve the seal of the window. The Committee had not

been able to identify any particular faults with the windows during the course of their inspection. The Committee accordingly indicated to parties that they intended to determine that there was no current failure of the repairing standard in relation to any of the windows at the property. Neither the Tenant's representative nor the Landlord's agent objected to this finding;

- (b) during their inspection the Committee had noted the extent of disrepair of the gutters and the consequential damp staining to the external rear elevation of the property and the damp mould which had grown on the second floor of the common staircase within the property. The Landlord's agents accepted that the gutters within the property are not in a proper state of repair and that further works are required to repair and/or renew them to ensure that they are in a proper working order. The Landlord's agents confirmed to the Committee that the Local Authority owns the majority of the properties within the tenement building. The Local Authority had surveyed the building in March 2014. The Landlord's agents explained that the Local Authority are now planning to take forward works to the gutters at the property to ensure that these are repaired and/or renewed as necessary. It was understood that the Local Authority would require to construct scaffolding to complete these works. The Landlord's agents explained that the Local Authority had now written to the other owners of properties within the building seeking their consent to carry out the works and seeking those owners' consent to pay for their share of those works. The Landlord's agents exhibited to the Committee a voting form which had been circulated to the Landlord of the property in relation to the proposed work to be carried out by the Local Authority to address the mould growth which had grown on the second floor of the common stair wall. The Landlord's agents confirmed that they had been advised, by the Local Authority, that similar forms had been sent to other owners within the tenement. They had also been advised that the Local Authority had sent similar forms to the other owners within the tenement in relation to necessary works required to the gutters at the property.

The Landlord's agents explained that they understood that the Local Authority had given the owners until 29 August 2014 to consent to the necessary works to the gutters at the property. As the Local Authority are the majority owners within the building and in terms of the Deed of Conditions, the Local Authority intended to proceed with the work after that date. The Landlord's agents anticipated that it could be a further 6 – 8 weeks before those works would be completed.

Given that the Landlord accepted that the gutters at the property are not in a reasonable state of repair, the Committee determined that there was a failure of the repairing standard in this respect.

The Tenant's representative considered that any order of the Committee in this respect should require the Landlord to carry out the works as soon as possible. The Tenant's representative pointed out to the Committee that these matters have been outstanding since before March 2014 and that no repairs had been carried out to date.

The Landlord's agents explained that they are in the hands of the Local Authority who are taking forward the work and that they considered it could be a further 6 – 8 weeks before the Local Authority would complete that work.

In all the circumstances and having taken into account the parties representations in this issue, the Committee determined that the property failed the repairing standard in respect of this matter as the guttering at the property is not in a reasonable state of repair or in proper working order. The Committee determined that they would require the Landlord to carry out such works as are necessary to repair and/or renew the guttering at the property within a period of 6 weeks and to further ensure that there is action taken to repair the mould growth on the second floor of the common stairway within the property;

- (c) the Committee noted, from paperwork and file evidence of the parties present, that the boiler in the property had been condemned for a period of 7 days in 2014. As at the date of the hearing, however, the Committee noted that, following further inspections by qualified gas operatives, a gas safety certificate had been issued by that operative on 12 March 2014. The certificates issued by the gas operatives confirmed that the boiler had passed gas safety checks. The Tenant's representative expressed concern that the certificate issued by the gas operative further stated that a warning advice notice required to be issued as "flue clearances NCS". It was understood from the parties that NCS stood for 'not current standard'. Both the Committee and the Tenant were concerned that a certificate could be issued to confirm that the boiler in the property is not current standard and the Committee were anxious to ensure that there was clarity from the gas operative that (notwithstanding the issue of the warning/advice notice), the boiler installation was nonetheless safe to operate.

The Committee and parties present had a discussion regarding the possibility of obtaining a further report from the gas operative to confirm that the boiler is safe to use notwithstanding the issue of the warning/advice notice.

Following the hearing itself, however, the Committee noted that the warning/advice notice report which was issued by the gas operative on the 12 March 2014 confirms that

"the gas installation pipework is not to current standard (NCS) reason: flue within clearances of combustible material. The installation/appliance is currently operating safely and does NOT constitute either an "immediately dangerous" or "at risk" situation. The defects do not present a gas safety danger at this time. However, in the interests of safety, it is recommended that the installation is upgraded to current requirements."

Having considered the full terms of the warning/advice notice which was issued by the gas operative, the Committee are satisfied that the Landlord has exhibited sufficient paperwork to confirm that the boiler is capable of operation in a safe manner. The Committee have therefore determined that there is no current failure of the repairing standard in relation to this matter.

- (d) that the door entry system to the property is now operational, having recently been repaired by the Landlord. In the circumstances, the Committee determined that there is no failure of the repairing standard in relation to this matter; and
- (e) that the property had recently been fitted with a mains wired smoke detector which is located within the hallway of the property. The Committee therefore determined that at the date of the inspection, there was no failure of the Landlord in relation to this matter. The Committee further noted that the Tenant complained that the Landlord had failed to provide a CO2 detector for the duration of the tenancy. There is no current legal requirement for a Landlord to provide such a detector within tenancies and accordingly, the Committee have determined there has been no failure by the Landlord of the repairing standard in relation to this matter.

Decision

9. The Committee accordingly determined that the Landlord has failed to comply with the duty imposed by Section 14 (1) (b) of the Act in respect of the issues identified at paragraph b above. The Committee proceeded to make a Repairing Standard Enforcement Order as required by Section 24.1 of the Act.

10. The decision of the Committee was unanimous.

Right of Appeal

11. 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

12. 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 . **A Cowan**

Andrew Cowan, Chairperson

Date 2 September 2014

L McManus

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