



REPAIRING STANDARD ENFORCEMENT ORDER
Ordered by the Private Rented Housing Committee

RE: Property at 38 Lanark Avenue, Deans, Livingston EH54 8QL as more particularly described in Land Certificate Title Number WLN7310 (hereinafter referred to as "the House")

The Parties:

Laura Gray, 38 Lanark Avenue, Deans, Livingston EH54 8QL (hereinafter referred to as "the Tenant")

Mark Paterson Mandagie, Davaar Avenue, Newton Mearns, (hereinafter referred to as "the Landlord")

PRHP REFERENCE PRHP/RP/14/0133

NOTICE TO MARK PATERSON MANDAGIE

WHEREAS in terms of their decision dated 29 September 2014 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 and in particular that the Landlord has failed to ensure that the House meets the repairing standard in that:

"... (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,...

(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..."

The Committee now requires the Landlord to carry out such work as is necessary for the purposes of ensuring that the House 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 Committee requires the Landlord:

- 1 To repair or replace the electric oven so that there is an oven in working order.
- 2 To replace all broken or missing roof tiles.
- 3 To clean the roof gutters of all debris and vegetation.
- 4 To put the broken fence into a state of good repair.

- 5 To repair or replace the shower so that it is in working order.
- 6 To carry out repairs in the bathroom so that water no longer leaks from the bath and to ensure that the bath is effectively sealed.
- 7 To investigate and repair any damage in the area of the bathroom floor.
- 8 To put the ceiling of the downstairs toilet into a state of good repair.
- 9 To fit draught proof seals to the front and rear doors so that they reasonably reduce draughts.
- 10 To ensure that all the decoration in all areas where repairs are carried out is made good.

The Committee order that the works specified in this Order must be carried out and completed within 42 days from the date of service of this Notice.

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 the decision.

Where such an appeal is made, the effect of the decision and 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 preceding page are signed by John Miller McHugh, Chairperson of the Private Rented Housing Committee at Edinburgh on the Twenty Ninth day of September Two Thousand and Fourteen in the presence of the undernoted witness:

J McHugh

Chairperson

G McHugh

Witness

Witness Address

GILLIAN MCHUGH
3 ROBERTSON STREET
EDINBURGH



DETERMINATION BY PRIVATE RENTED HOUSING COMMITTEE

**STATEMENT OF DECISION OF THE PRIVATE RENTED HOUSING COMMITTEE
UNDER SECTION 24(1)
OF THE HOUSING (SCOTLAND) ACT 2006**

In connection with

38 Lanark Avenue, Deans, Livingston EH54 8QL (hereinafter referred to as
"the House")

Laura Gray, 38 Lanark Avenue, Deans, Livingston EH54 8QL (hereinafter
referred to as "the Tenant")

Mark Paterson Mandagie, Davaar Avenue, Newton Mearns, Glasgow (hereinafter
referred to as "the Landlord")

PRHP REFERENCE PRHP/RP/14/0133

DECISION

The Committee, having made such enquiries as are 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 (hereinafter "the Act") in relation to the House, taking account of the evidence led by the Tenant at the hearing and taking account of the written documentation attached to the application and submitted by the parties, determined that the Landlord had failed to comply with the duty imposed by section 14(1)(b) of the Act.

Background

By application dated 20 May 2014 (hereinafter "the Application"), the Tenant applied to the Private Rented Housing Panel (hereinafter "the PRHP") for a determination of whether the Landlord had failed to comply with the duties imposed by section 14(1)(b) of the Act.

The Application stated that the Tenant considered that the Landlord had failed to comply with the duty to ensure that the House meets the repairing standard and in particular that the Landlord had failed to ensure compliance with the following paragraphs of section 13(1) of the Act:

“(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,...

(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,...”

The Tenant complained of the following defects in the House: a hole in the downstairs toilet ceiling; the oven not working; the condition of the roof; draughts from the front and back doors; the shower not working; problems with water leaking from the upstairs bathroom; and fence panels missing.

By letter of 19 July 2014, the President of the PRHP intimated a decision to refer the application under section 23(1) of the Act to a Private Rented Housing Committee (hereinafter referred to as “the Committee”).

The Committee comprised the following members:

John McHugh, Chairperson
Christine Anderson, Housing Member
Donald Marshall, Surveyor Member

The Committee served Notice of Referral in terms of Paragraph 1 of Schedule 2 to the Act upon the Landlord and the Tenant.

The Committee inspected the House on 22 September 2014. The Tenant was present. The Landlord was neither present nor represented.

Following the inspection, the Committee held a hearing at Livingston Station Community Centre, Main Street, Deans, Livingston. The Tenant did not attend, having confirmed at the inspection that she did not intend to. No one attended on behalf of the Landlord.

Submissions at the Hearing

The Committee considered the evidence which had been submitted by the Tenant. No evidence or substantive representations had been received from the Landlord.

Summary of the Issues

The issue to be determined is whether the House meets the repairing standard as laid down in section 13 of the Act and whether the Landlord has complied with the duty imposed by section 14(1)(b).

Findings in Fact

The Committee confined their inspection to the items of complaint detailed within the Tenant's Application.

The Committee made the following findings in fact:

The House is a terraced house on ground and first floor level.

The Tenant entered into a tenancy agreement in respect of the House on 27 July 2010.

Mark Paterson Mandagie is the registered owner of the House.

The Tenant has been in possession of the House since before the beginning of the tenancy agreement (the Tenant having previously been the owner of the House) and remains in occupation.

The provisions of Chapter 4 of Part I of the Act apply to the tenancy.

The Tenant notified the Landlord of the defects in the House which are now the subject of the Application by email to the Landlord's agents dated 25 March 2014.

The inspection on 22 September 2014 revealed:

There are broken and missing roof tiles.

Vegetation is growing in the gutters.

There is a hole in the downstairs toilet ceiling.

The electric oven is not working properly.

Two panels are missing from the larch lap fence in the back garden.

Draught proofing is missing from the front and rear doors.

In the upstairs bathroom, the seal around the bath is failing and the Tenant reports water escape from the bathroom to the downstairs toilet beneath.

The shower is not working.

There is no evidence of a mains powered smoke detector in the House.

Reasons for the Decision

Roof

There are broken and missing roof tiles. Vegetation growth is present in the gutters.

Oven

The gas hob is functioning but the electric oven does not heat up.

Fence

Two sections of the larch lap rear boundary fence are missing. The Tenant reports that these were weather damaged.

Downstairs Toilet

A large hole is present in the ceiling.

Upstairs Bathroom

The Tenant advises that water leaks from the bath when it is used. She had replaced some tiles and had very recently re-sealed the bath. That seal is already failing. The Landlord's attempt to fix the problem using silicone sealant had failed. There is evidently a problem which requires investigation in the area around and beneath the bath. The hole in the ceiling of the toilet below is likely to be related to the escape of water from the bathroom above.

The shower is not working. The Tenant advises that the Landlord had sent someone to inspect it. That person reported that the shower could not be fixed and required to be replaced.

Doors

The original 1970s front and rear doors are present. Draught proofing seals have been fitted to both at later dates. Some of the seals are missing from the front door. The seals fitted to the rear door are ineffective in that they do not cover the gap between the door and the frame.

Other matters

The smoke alarm appeared to be battery operated. When this requires replacement, a mains powered alarm should be installed. The Landlord may wish to consider earlier replacement with a mains powered alarm.

Observations

We found the Tenant's evidence to be entirely credible.

The Repairing Standard

The Committee consider that the defects identified above constitute breaches of the repairing standard.

Repairing Standard Enforcement Order

Having decided to make a Repairing Standard Enforcement Order, the Committee considered the length of time which should be provided for compliance.

The Committee elected to impose a period of 42 days having regard to the nature of the defects identified.

Decision

The Committee, considering the terms of section 13(3) of the Act, determined that the Landlord had failed to comply with the duty imposed by section 14(1)(b) of the Act.

The Committee proceeded to make a Repairing Standard Enforcement Order as required by section 24(2) of the Act.

The decision of the Committee was unanimous.

Right of Appeal

Section 64 of the Act provides a right of appeal to a landlord or tenant aggrieved by a decision of a private rented housing committee. An appeal may be made to the Sheriff within 21 days of the Landlord or Tenant being informed of the decision.

Where such an appeal is made, the effect of the decision and 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.

J McHugh

John M McHugh
Chairperson

Date: 29 September 2014