



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

prhp Ref: PRHP/R/15/0040

Re: Property at G/R, 4 Lawson Place, Dundee DD3 6NQ ("the Property")

Title No: ANG19419

The Parties:-

ZHI JIAN LI, care of Balgay Property and Investment Services, 8 Westport, Dundee DD1 5EP ("the Landlord")

JAMES SCOTT, residing at G/R, 4 Lawson Place, Dundee DD3 6NQ ("the Tenant")

NOTICE TO ZHI JIAN LI ("the Landlord")

Whereas in terms of their decision dated 18 May 2015, 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 property meets the Repairing Standard in respect of:-

Section 13(1)(a): the house is wind and watertight and in all other respects reasonably fit for human habitation.

Section 13(1)(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.

Section 13(1)(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.

Section 13(1)(e): any furnishings provided by the Landlord under the tenancy are capable of being used safely for the purpose for which they are designed.

Section 13(1)(f): the house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.

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

1. To instruct a reputable contractor to inspect, survey, overhaul and repair the windows within the property so as to ensure that they are in good working order, windproof and are capable of being opened, shut and locked.

2. To replace the electric shower within the bathroom of the property.
3. To repair or replace the washing machine in the property and for it to be tested to ensure that it is working properly, and for a report in that respect to be prepared and produced by a suitably qualified domestic appliance engineer. Unless replaced by a brand new appliance, evidence of the washing machine having been PAT tested also requires to be vouched.
4. The light and fan within the bathroom of the property require to be repaired or replaced so as to ensure that they are operable and in good working order.
5. The bedroom of the property requires to be re-decorated following a problem with damp, most likely to have been caused by, or exacerbated by, lack of heating due to the boiler in the property which was condemned.
6. The hole in the bedroom ceiling, where a previous light fitting was situated, requires to be re-plastered and re-decorated.
7. An Electrical Installation Condition Report requires to be instructed and produced confirming that all C1 and C2 issues referred to within the previous Electrical Installation Condition Report dated 28 November 2014 have been resolved.
8. A functionality test by a qualified electrician requires to be carried out and vouched in respect of the fixed appliances within the property, namely the electric cooker within the kitchen and the newly installed shower as required in terms of item 2 above.
9. The provision for detecting and giving warning in the event of fire in the Property requires to be upgraded. This should be in accordance with the Scottish Government Revised Statutory Guidance on the requirements for smoke alarms (which if necessary is available of the PRHP website). This guidance states that there should be at least one functioning smoke alarm in the room which is frequently used by the occupants for general daytime living purposes, one functioning smoke alarm in every circulation space, such as hallways and landings, one heat alarm in every kitchen and all alarms should be interlinked.
10. The defects noted in the Gas Safety Certificate issued on 14 January 2015 should be remedied. A terminal guard should be fitted to the external vent. The speedfit PRV pipe work should be replaced to ensure that the overflow from the external pipe flows towards the wall. The flue should be resealed with mortar and/or plaster and ensure that it is correctly sealed.

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

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 typewritten on this and the preceding page(s) are executed by Richard Mill, Solicitor, chairperson of the Private Rented Housing Committee at Edinburgh on the Eighteenth day of May Two Thousand and Fifteen before this witness:-

M. MURRAY

R. MILL

witness

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chairman

Margaret Johnstone Murray
21 Stafford Street
Edinburgh
EH3 7BJ

Legal Secretary

Private Rented Housing Committee

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

Re: G/R, 4 Lawson Place, Dundee DD3 6NQ (“the Property”)

Title Number: ANG19419

The Parties:-

JAMES SCOTT, residing at G/R, 4 Lawson Place, Dundee DD3 6NQ (“the Tenant”)

ZHI JIAN LI, care of Balgay Property and Investment Services, 8 Westport, Dundee DD1 5EP (“the Landlord”)

Committee members:-

Richard Mill (Chairman), Geraldine Wooley (Surveyor Member) and Christine Anderson (Housing Member)

Decision

The committee, having made enquiries 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 (“the Act”) in relation to the Property, determined that the Landlord has failed to comply with the duty imposed by Section 14(1)(b) of the Act in respect that the Property does not meet the Repairing Standard.

Background

1. By application dated 29 January 2015, and received on 30 January 2015, 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 Act in respect of the Property.

2. In the application the Tenant stated that the Landlord had failed to comply with the duty to ensure that the house meets the Repairing Standard in a number of respects. The relevant aspects of the Repairing Standard put at issue are those contained within Sections 13(1)(a), (c), (d), (e) and (f) which are in the following terms:-
- whether the house is wind and watertight and in all other respects reasonably fit for human habitation.
 - whether 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.
 - whether any fixtures, fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order.
 - whether any furnishings provided by the Landlord under the tenancy are capable of being used safely for the purpose for which they are designed.
 - whether the house has satisfactory provision for detecting fires and for giving warning in the event of fire, or suspected fire.
3. Notices of Referral were issued to parties on 18 March 2015.

Inspection

4. The committee inspected the Property on 14 May 2015 at 10.30 am. The Tenant was accompanied by a professional carer and a friend. The Landlord was accompanied by his agent, Mr Seng Say Ly from Messrs Balgay Property & Investment Services, and Mr Bob Anderson, builder, who had assisted with and co-ordinated former works being undertaken in the tenancy on behalf of the Landlord.

Hearing

5. Following the inspection of the Property the committee convened a Hearing at Kirkton Community Centre, Derwent Avenue, Dundee DD3 0AX. The Tenant appeared personally and was represented by Ms Gail Cameron, paralegal, Dundee North Law Centre. The Tenant also had his friend, Steven Donald, in attendance as a supporter. The Landlord appeared personally and was represented by Mr Seng Say Ly from Messrs Balgay Property & Investment Services. Also in attendance with the Landlord was Mr Bob Anderson, builder.

Summary of the issues

- 6.1 The issues to be determined by the committee are whether or not the Property meets the Repairing Standard to the extent put at issue within the application, as at the date of the Hearing.

6.2. The matters complained of generally by the Tenant were:-

- dampness throughout the property.
- boiler problems (condemned 2 October 2014 by Scotland Gas Networks).
- heating and hot water problems.
- defective shower.
- electrical wiring problems.
- windows broken, draughty and unlockable.
- broken washing machine.
- defective cooker.
- concerns about fire alarms.

Findings in Fact

7. The committee makes the following findings in fact:

- 7.1 The title to the subjects known as G/R, 4 Lawson Place, Dundee DD3 6NQ is held by the Landlord. Their interest is registered in the Land Register of Scotland under title number ANG19419 on 14 January 2013.
- 7.2 The Property which is the subject of this application is a one bedroom ground floor flat which is entered off a common tenement stair.
- 7.3 The parties entered into a Short Assured Tenancy Lease arrangement in respect of the property on 11 February 2014.
- 7.4 The Tenant is a vulnerable adult. He suffers from mental health problems. He requires professional carers to assist him. He smokes.
- 7.5 In relation to the matters complained of in the application, the committee's inspection revealed:-
 - i. The windows in the property are of a modern uPVC type. The opening mechanisms which also lock the windows in both the living room windows and the bedroom window are not functioning properly. They do not enable the windows to be easily closed nor secured property. The living room windows

currently allow the easy passage of air around the perimeters and are not wind tight.

- ii. The electric shower within the property was evidenced to be defective. Although it was functional and capable of being switched on, the hot temperature of the running water quickly turned cold. Although an isolator switch had been missing previously it was noted that one had been provided, situated in the cupboard within the living room adjoining the bathroom.
- iii. The fan and light in the bathroom were not working. They are known to be linked and function together.
- iv. The washing machine in the property is capable of being switched on and a wash cycle commenced. However the wash cycle did not finish. The washing machine has been faulty in this regard for some time. It is not capable of reliably concluding a wash cycle.
- v. The boiler in the property was condemned by Scottish Gas Networks on 2 October 2014 as a result of a gas leak. This was intimated to the Landlord's agents immediately thereafter. No steps were taken for at least 2 possibly 3 months thereafter leaving the property unheated over the winter months. A Gas Safety Certificate was subsequently issued on 14 January 2015. Although this Certificate shows that all essential items reach a pass standard, it also notes four defects in the installation.
- vi. An Electrical Installation Compliance Report was prepared on behalf of the Landlord and is dated 28 November 2014. This raised numerous concerns in categories C1 and C2. A number of electrical repairs and upgrades have been carried out since then, including the installation of a new consumer unit. Although some work has been carried out to the electrical installation there is no evidence that all formerly identified electrical concerns have been resolved.
- vii. There is evidence of former damp, complained of by the Tenant, in the property. At the time of the committee's inspection there were no significant damp readings detected. The decorative condition of the bedroom in the property is poor due to the former condition of damp, most likely to have been caused by or exacerbated by the lack of heating due to the condemned boiler.
- viii. As a result of a former leak from upstairs, the bedroom light fitting in the centre of the ceiling has been replaced. There is a sizeable round shaped hole in the bedroom ceiling.

ix. There is one hard wired smoke alarm in the hallway of the property. There are no others.

7.6 The Landlord unreasonably delayed and failed to repair or replace the condemned boiler within the property.

Reasons for the Decision

8. The committee determined the Application having regard to the bundle of papers (which had been made available in advance to parties), their inspection, together with the evidence taken at the Hearing.

9. The committee were only able to formally consider the Tenant's complaints which formed part of the intimated Application. The committee were also under an obligation to consider the Tenant's complaints as at the time of the Hearing on 14 May 2015.

10. The committee was satisfied having regard to all of the available evidence that there was sufficient information and material upon which to reach a fair determination of the reference.

11. The committee's findings as established at the time of the inspection formed the principal body of evidence and foundation for the committee's findings and was the principal basis of their decision. The committee was assisted by both parties and their representatives in understanding chronological events and the standard of the property.

12. The committee were substantially concerned about the failure of the landlord and his agent to undertake work urgently or, indeed, within any reasonable timeframe following upon intimation of the condemned boiler within the property which occurred on 2 October 2014. The boiler was condemned under the grounds of ID - immediate danger and GL - gas leak. The Landlord's agent from Balgay Property & Investment Services could offer no credible explanation as to why there had been a delay of at least 2 and possibly 3 months before the boiler was remedied. It remained unclear to the committee as to whether or not the boiler had been repaired in either December or January due to the competing statements made by the parties. Delaying essential repairs which might adversely affect the health of the Tenant and the condition of the property is very poor practice on the part of the Landlord.

13. The committee noted that the Gas Safety Certificate produced which is dated 14 January 2015 confirms a pass standard in respect of all essential components of the gas safety check. It is also noted however from the said Certificate that defects were identified, being the subject of recommended work including the fact there is no terminal guard on the external flue and the PRV outflow pipe does not face back to the wall. The evidence available suggests that the boiler is not particularly

aged and the impression the committee formed generally was to the effect that the Landlord is providing the most basic of standards which he can, and that any repair or upgrade work carried out is of a bare minimum nature. This is poor practice in property management.

14. The committee noted that a hardwired smoke alarm had been recently fitted within the hallway of the property. The Tenant had raised concerns about the standard of the provision of fire alarms. The committee formed the view that this was an essential matter to be remedied for the Tenant's safety. The recent provision of the single fire alarm does not adhere to the guidelines issued by the Scottish Government and expected by the Private Rented Housing Panel. Such guidance can be found on the PRHP website. The Tenant is a vulnerable adult who smokes.
15. The requirements set out by the committee within the corresponding Repairing Standard Enforcement Order are the works required to remedy the current departures from the Repairing Standard.

Decision

16. The Property does not meet the Repairing Standard. The Landlord has not complied with their duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006. A Repairing Standard Enforcement Order is necessary.

Right of Appeal

17. 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 of the Act

18. Where such an appeal is made, the effect of the decision and of any order made, 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 date on which the appeal is abandoned or so determined.

R. MILLS

Signed
Chairman

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Date

18 May

2015