



REPAIRING STANDARD ENFORCEMENT ORDER
Ordered by the Private Rented Housing Committee

**RE: All and Whole the dwelling house known as 25 Herd Green, Livingston,
West Lothian EH54 8PU more particularly described in Land Certificate
WLN25625 (hereinafter referred to as “the House”)**

The Parties:

**Keith Montgomery, residing formerly at the House (hereinafter referred to as
“the Tenant”)**

**Niel Friis-Jorgensen, 132 St Stephen Street, Edinburgh EH3 5AA (hereinafter
referred to as “the Landlord”)**

PRHP REFERENCE PRHP/RP/16/0118

NOTICE TO NIEL FRIIS-JORGENSEN

WHEREAS in terms of their decision dated 29 September 2016 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:

*“(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”*

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:

To repair or replace the double wooden doors in the dining area of the kitchen such that there is present a door or doors which are in sound condition, reasonably weatherproof and reasonably draught proof.

The Committee orders that the works specified in this Order must be carried out and completed within 60 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 Sixteen in the presence of the undernoted witness:

J. MCHUGH

Chairperson

G. MCHUGH

Witness

JILLIAN MCHUGH

Witness Address

*65 HAYMARKET TENAILE
EDINBURGH
EH12 5TD*



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

Property at 25 Herd Green, Livingston, West Lothian EH54 8PU (hereinafter referred to as “the House”)

Keith Montgomery, residing formerly at the House (hereinafter referred to as “the Tenant”)

Niel Friis-Jorgensen, 132 St Stephen Street, Edinburgh EH3 5AA (hereinafter referred to as “the Landlord”)

PRHP REFERENCE PRHP/RP/16/0118

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, and taking account of the written documentation attached to the application and the Landlord's written and oral representations, determined that the Landlord had failed to comply with the duty imposed by section 14(1)(b) of the Act.

Background

By application received on 4 April 2016 (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:

*“(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”*

The Tenant complained that the roof was leaking, there was a problem with drainage in the en suite bathroom, the kitchen doors were not weather proof and that the garage roof was in a poor state of repair.

By letter of 8 July 2016, 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 “the Committee”).

The Committee comprised the following members:

John McHugh, Chairperson
Robert Buchan, Surveyor Member

Having received confirmation from the Landlord that the tenancy of the House had been terminated, the Committee then considered the matter further. On 16 July 2016 the Committee decided that the Application should be determined and issued a Minute of Continuation in terms of paragraph 7(3) of schedule 2 to the Act.

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 27 September 2016. The Landlord was present. A new tenant is in occupation of the House.

A hearing took place thereafter at Livingston Station Community Centre. Neither party were in attendance, the Landlord having provided sufficient information to the Committee at the inspection such that his attendance at the hearing was not requested by the Committee.

Submissions at the Hearing

There were no submissions at the hearing. The Landlord had however indicated during the inspection that the garage roof had been repaired with new wooden beams and felt. He advised that house roof repairs had been carried out in March 2016 after storm damage had occurred. The Landlord acknowledged that the Tenant had reported a problem with water draining from the en suite bathroom shower. There had been some disagreement with the Tenant in relation to whether the Tenant's own plumber or the Landlord's plumber should carry out any remedial works. Remedial works had been carried out after the tenancy ended. These included installing a new shower tray.

The Landlord had believed that the Tenant's complaint in relation to the kitchen door had been in relation to the door in the kitchen area of the kitchen/diner but had observed no problems with that door. The Landlord had not previously inspected the other doors in the dining section of the room but acknowledged that there is a problem with those doors.

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:

There is a Tenancy Agreement between the Landlord and Tenant dated 30 March 2015.

A tenancy existed between the Landlord and Tenant.

Neil Graham Friis Jorgensen is the registered owner of the House.

The Tenant took possession of the House from 30 March 2015 and remained in occupation until on or around July 2016.

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 of 4 April 2016 addressed to the Landlord.

The inspection on 27 September 2016 revealed:

The House is a detached bungalow with a separate garage.

The House is generally in reasonable condition.

The garage roof has new wooden beams and felt. The garage roof appears to be in reasonable condition and there is no evidence of water ingress.

The house roof appears to be in reasonable condition. Various ridge and other roof tiles have been replaced recently and there is no evidence of water ingress.

A new shower tray has been installed in the en suite bathroom. There is no evidence of any drainage problem. The wall and floor in the bedroom adjacent to the shower show no evidence of dampness.

The kitchen/dining room has a main external door from the kitchen area leading into the garden. It is in reasonable condition.

There is a second set of double doors leading from the dining area of the same room into the garden. The lower sections of the wooden doors are rotten and there is evidence of fungal growth. The doors do not meet properly and a gap is present at the top which allows draughts to enter.

A schedule of photographs taken at the inspection is appended to this Determination.

Reasons for the Decision

Garage

Repairs have been carried out. The garage roof appears to be in reasonable condition and there is no evidence of water ingress.

House Roof

Repairs have been carried out. The house roof appears to be in reasonable condition and there is no evidence of water ingress.

En suite Bathroom

Repairs have been carried out and there is no evidence of any problem.

Kitchen Doors

The lower sections of the double wooden doors in the dining area are rotten. There is evidence of fungal growth. The doors do not meet properly and a gap is present at the top which allows draughts to enter.

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 60 days having regard to the nature of the work required.

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.

Observations

A physical re-inspection of the House is normally carried out after the expiry of the time limit contained in the RSEO. In this case, that may be able to be avoided if the Landlord provides to the office of the PRHP an invoice for door replacement/repair work and photographic evidence that the work has been completed.

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 2016

Photographs taken during the inspection of
25 Herd Green, Livingston, EH54 8PU



Front, with garage on the left

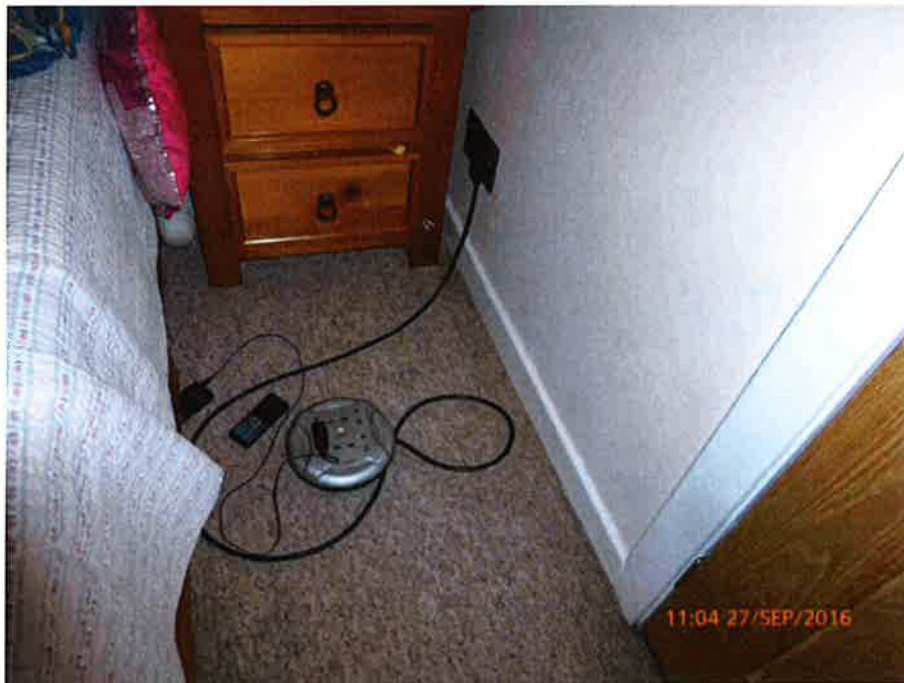


Rear, showing replaced tiles

Photographs taken during the inspection of
25 Herd Green, Livingston, EH54 8PU



New shower tray



Area outside shower-room

Photographs taken during the inspection of
25 Herd Green, Livingston, EH54 8PU



Door of dining area

Photographs taken during the inspection of
25 Herd Green, Livingston, EH54 8PU



Detail of door showing fungal growth



Interior of garage showing new roof and support