



REPAIRING STANDARD ENFORCEMENT ORDER
by the
PRIVATE RENTED HOUSING COMMITTEE

PRHP Ref: prhp/PA8/200/11

PROPERTY:

4, Park Top, Erskine PA8 7HP, registered in the Land Register for Scotland under title number REN62133

PARTIES:

Ms Colleen Duncan, residing at the property **("the Tenant")**

Martin Hesketh, t/a Iona Developments Limited, 21 Briar gardens, Glasgow G43 2TF
("the Landlord")

REPAIRING STANDARD ENFORCEMENT ORDER ('RSEO')

1. **WHEREAS** in terms of their decision dated 4 May 2012 the Private Rented Housing Committee ('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 ('the Act') and in particular the property fails to meet the repairing standard as set out in section 13(1) of the Act.
2. The Committee now requires the Landlord carry out such work as is required to ensure the property meets the repairing standard and that any damage caused as a consequence of carrying out of any works in terms of this Order are also made good before the expiry of the Completion Date.

THE ORDER

3. In particular, and without prejudice to the foregoing generality, the Committee **HEREBY ORDERS** the landlord to carry out the following repairs ('the Works');-

- 3.1. To investigate the cause of water ingress in and around the window in the upstairs front bedroom and to carry out necessary repairs to prevent such ingress and make good any damage caused by the ingress of water and the repairs.
- 3.2. To commission an inspection and report on the central heating boiler from a suitably qualified Gas Safety engineer and to carry out any necessary repairs identified therein to ensure that the boiler and heating system are in full and proper working order.
- 3.3. To repair or replace the wc and cistern as necessary in the downstairs toilet to eliminate leaks from the outflow pipe and to ensure that the flushing mechanism of the cistern is in full and proper working order.
- 3.4. To carry out necessary repairs or replacement of the bath and shower fittings and the seals around the bath to eliminate the escape of water from the bath and/or shower and eliminate the associated water damage problems to the ground floor ceilings in the fuse box cupboard and the hallway. Thereafter to make good all damage caused by leak and the remedial work and replace any damaged or rotten flooring as appropriate.
- 3.5. To commission an inspection and report by a suitably qualified electrician of:
 - 3.5.1. the light fittings on the ground floor of the property
 - 3.5.2. the electric cable running beneath the bath
 - 3.5.3. the suitability and safety of the wiring in respect of the shower unit.and to carry out necessary repairs and/ or replacements identified by such a report.
- 3.6. To investigate and carry out necessary repairs to the drainage from the washing machine in the kitchen to eliminate the back flow of drainage water from the washing machine to the kitchen sink and the wash hand basin in the downstairs toilet.
- 3.7. To obtain and exhibit to the Committee an up to date Gas Safety Certificate.
- 3.8. To lodge copies of all reports obtained under this Order to the Committee prior to the date of any re-inspection of the property by the Committee.

4. The Committee **HEREBY FURTHER ORDERS** that the Works specified in this Order must be carried out and completed before the expiry of the Completion Date of two months from the date of service of this Order.

RIGHT OF APPEAL

5. A Landlord or Tenant has the right to appeal this decision to the Sheriff by summary application within 21 days of being notified of that decision.

EFFECT OF APPEAL

6. In terms of section 63 of the Act, where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by confirming the decision, the decision and any 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 consisting of this and the preceding two pages are subscribed as follows:-

D Preston

.....Chairman

.....20 May 2012.....Date of Signing

.....Oban.....Place of Signing

S Preston

.....Witness

...Sheila Preston.....Name

...Westbank.....Address

...Duncraggan Road..

...Oban.....

...Argyll.....



PRIVATE RENTED HOUSING COMMITTEE

STATEMENT OF DECISION OF THE PRIVATE RENTED HOUSING COMMITTEE UNDER SECTION 26(1)) OF THE PRIVATE RENTED HOUSING PANEL (APPLICATIONS AND DETERMINATIONS)(SCOTLAND) REGULATIONS 2007

In connection with

PROPERTY:

4, Park Top, Erskine PA8 7HP

PARTIES:

Ms Colleen Duncan, residing at the property

("the Tenant")

**Martin Hesketh, t/a Iona Developments Limited, 21 Briar gardens, Glasgow G43
2TF**

("the Landlord")

PRHP Reference: prhp/PA8/200/11

Decision

The Committee, having made such enquiries as is fit for the purposes of determining whether the Landlord has complied with the duty imposed by Section 14 (1)(b) in relation to the house concerned, and taking account of the evidence led by the Tenant at the hearing as well as her written representations, determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 (hereinafter referred to as "the Act").

Background

- 1. By application dated 24 October 2011 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 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 watertight and in all other respects reasonably fit for human habitation.

(b) 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 .

All in terms of section 13(1) (a) and (d) of the Act.

3. The President of the Private Rented Housing Panel, by Notice of Referral dated 30 November 2011 intimated a decision to refer the application under Section 22 (1) of the Act to a Private Rented Housing Committee ("the Committee").

The Committee comprised the following members:

Mr. David M Preston, Legal Member
Ms. Carol Jones, Surveyor Member
Mr. Chris Harvey, Housing Member

4. The Private Rented Housing Committee served Notification of Inspection/Hearing under and in terms of Schedule 2, Paragraph 1 of the Act upon both the Landlord and the Tenant on 2 February 2012. The parties thereafter sought an adjournment of the inspection and hearing and a further Notification was served on the parties on 29 March 2012 advising that the Hearing and Inspection would take place on 4 May 2012.
5. Along with the Notice of Referral, a Notice of Direction was served on the Landlord, calling upon him to produce (1) an up to date periodic inspection report on the condition of the electrical installation and any appliances and (2) a gas safety certificate by a Gas Safe engineer on the gas installation and any appliances. In response to the Direction the Landlord produced a Domestic Installation Certificate dated 14 September 2011 and a copy of a Gas Safety Record dated 8 March 2011.
6. Following service of the Notice of Referral, the Tenant made no further written representations. The Landlord, in a letter dated 7 December 2011 made representations to the Committee, which mainly related to issues regarding rent arrears and actions taken by him to recover possession of the property with which the Committee has no concern.
7. The Committee inspected the Property on the morning of 4 May 2012. The Tenant was present but the Landlord was not in attendance.
8. Following the inspection of the Property the Committee held a hearing at Europa Building, 450 Argyle Street, Glasgow. The Tenant attended the Hearing but the Landlord was neither present nor represented. The Committee was satisfied that the Notification of Hearing and Inspection had been duly served upon the Landlord and, in the absence of any reason for non-appearance, determined that the Hearing should proceed in his absence.

9. The Committee considered the written and documentary evidence submitted by both parties, comprising

- the application dated 24 October 2011,
- copy letter from the Tenant to the Landlord dated 5 September 2011,
- copy letter from the Landlord to the tenant dated 7 September 2011,
- letter from Andrew Brown dated 1 November 2011,
- copy Lease between the Parties dated 21 December 2009,
- copy correspondence between the PRG Partnership, Solicitors, and the Tenant,
- copy correspondence between Renfrewshire Council and the Tenant,
- letter from the Landlord dated 4 December 2011, with further correspondence between him and the Tenant

and heard evidence from the Tenant.

Summary of issues

10. The issue to be determined was whether the property meets the repairing standard as laid down in Section 13 of the Act and whether the Landlord had complied with the duty imposed by Section 14(1)(b).

11. The Tenant complained that:

- 11.1. The handle to the front door required repair,
- 11.2. the upstairs bedroom window is not wind and watertight,
- 11.3. the central heating is defective and there is no safety certificate to say the boiler has its annual services,
- 11.4. the downstairs toilet cistern needs replaced as it is hard to get parts. It doesn't flush and it leaks,
- 11.5. the upstairs bathroom has a leak. The floor is rotten with dampness which is staining the ceilings below including one in the vicinity of the electricity fuse box,
- 11.6. under the bath is a major electricity cable under the length of the bath,
- 11.7. certain light fittings do not work,
- 11.8. the shower should have its own fuse to the main box,
- 11.9. the drainage system in the kitchen comes up through the kitchen sink.

Findings in Fact

12. The Committee finds the following facts to be established:-

- 12.1. On 21 December 2009 the Tenant entered into a lease with the Landlord for the rent of the property. This is an assured lease under the Housing (Scotland) Act 1988. The provisions in Chapter 4 of the Act apply.

- 12.2. The tenant duly notified the Landlord of the required works to the property by, inter alia, letter to the Landlord dated 5 September 2011, receipt of which the Landlord acknowledged in his letter to her of 7 September 2011.
- 12.3. The property is a former local authority two storey semi detached house constructed in the 1970's. It is situated in a residential area of Erskine, a commuter town located approximately 13 miles west of Glasgow. The accommodation comprises living room, kitchen and toilet on the ground floor and three bedrooms and bathroom on the upper floor. The house is not a listed building.
- 12.4. The inspection revealed:-
- 12.4.1. The front door handle has been repaired to the Tenant's satisfaction.
- 12.4.2. The window in the bedroom to the front of the property upstairs shows evidence of water ingress around the window surround and there is evidence of damp staining on the wall beneath the window. The Committee agreed that there was evidence of water ingress as complained of by the Tenant. The Committee noted that the windows have no trickle vent and considered the possibility that the problem could relate to condensation but concluded that the problem was more likely to be caused by water ingress. The Committee therefore finds this ground of complaint to be established
- 12.4.3. The central heating was not operating at the time of the inspection, the Tenant gave evidence that it did not work when she moved into the property in December 2009 and that the Landlord arranged for a repair. An engineer called in January 2010 but failed to fix it. Another engineer called in the same month and carried out further repairs which appeared to resolve the problem, but a few days later, the system displayed further faults which persist and have not been resolved. She reported that the heating either operates upstairs or downstairs intermittently although for the past 4 months it has only worked upstairs. She also requires to switch the hot water on at the boiler when required. The Committee noted that the gas safety record indicates that in the opinion of the engineer, the appliance is safe to use but does not indicate that the appliance was tested for proper operation. The Committee did not have the opportunity to test the operation of the central heating, but on the evidence of both the inspection and the tenant and in the absence of any other evidence to the contrary the Committee is satisfied that there is likely to be a fault with the central heating system and calls for a report to be commissioned from a suitably qualified engineer and for the recommendations of such a report to be implemented.
- 12.4.4. The toilet and cistern in the downstairs toilet have no flushing handle and the Tenant has to remove the cistern cover and operate the flush mechanism from within. In addition there was clear evidence of a leak from the outflow pipe from the toilet. These matters require to be investigated further and appropriate repairs or replacements carried out.

- 12.4.5. In the upstairs bathroom there is clear evidence of the seals around the bath being in a very poor condition and in need of repair or replacement. In addition the Committee finds that the design of the bath means that it is inappropriate to have the shower fitted above the end of the bath as water from the shower flows along the outside edge of the bath and runs on to the floor, resulting in the associated problems of water damage to the ceilings on the ground floor in the hall and in the cupboard housing the main electricity fuse box complained of by the tenant. These issues require to be addressed by the Landlord who should carry out the necessary repairs or replacements to the bath and shower fittings so as to eliminate the associated problems. All remedial works as a result of such repairs or replacement should also be carried out, including replacement of rotten or water damaged flooring as appropriate.
- 12.4.6. The Committee noted the electric cable beneath the path but is not qualified to determine whether this presents a hazard. Accordingly an examination should be carried out by a suitably qualified electrician to determine this and any recommendations should be implemented. The Committee noted the terms of the Domestic Electrical Installation Certificate produced by the Landlord dated 14 September 2011, but was not satisfied that the issue of this cable had been addressed.
- 12.4.7. The Committee noted that there were no light bulbs in the light fittings in the downstairs hall, vestibule or toilet. The Tenant reported that she was unable to fit bulbs as they blew immediately on being inserted. The Committee was not qualified to carry out any tests but was satisfied in the absence of any contrary evidence that there was an issue which required to be investigated by a suitably qualified electrician and a report produced with any recommendations to be implemented by the Landlord.
- 12.4.8. In respect of the Tenant's complaint about the fuse for the shower, the Committee noted the terms of the Domestic Electrical Installation Certificate, which was accepted so far as it goes. However the Committee was not satisfied that it did not address this specific issue. The Committee was not qualified to make any finding in this regard and accordingly requires that a report should be obtained from a suitably qualified electrician whose recommendations should be implemented by the Landlord.
- 12.4.9. With regard to the drainage system in the kitchen, the Tenant reported that when the washing machine is in operation, the water comes up into the kitchen sink and the wash hand basin in the toilet when the machine drains. The Committee noted evidence of rot to the kick plate beneath the kitchen sink. The Tenant reported that a plumber had attended in the past and had applied silicone sealant under the sink, but while this prevented flooding beneath the sink, it had not eliminated the problem. The Committee finds that the Landlord should attend to this problem and resolve the drainage issue.
- 12.5. The Committee noted during the inspection that in addition to the complaints raised by the Tenant, there were two Smoke Detectors in the property in the upstairs and downstairs hallways. The Committee noted that the detector on the upstairs landing was damaged and

appeared to be inoperable. Accordingly the Committee finds that the property fails to meet the Repairing Standard in respect that it does not have satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire in terms of section 13(1)(f) of the Act.

- 12.6. The Committee also noted that the Gas Safety Record produced in response to the Direction is now over twelve months old and requires to be renewed.

Reasons for the decision

13. The Committee was satisfied on the basis of the inspection and the written and oral evidence that the issues identified in Paragraphs 12.4.1 to 12.4.9 and 12.5 required attention by the Landlord to ensure that the property is wind and watertight and the fixtures, fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order and 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 and that it does not have satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.

Decision

14. The Committee accordingly determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.
15. The Committee proceeded to make a Repairing Standard Enforcement Order as required by section 24(1).
16. The decision of the Committee was unanimous.

Right of Appeal

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

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 D Preston
Chairperson

Date 20/5/12