

Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

Case reference number : PRHP/G42/23/11

Re:- Flat 2/1, 624 Cathcart Road, Glasgow, G42 8AA ("the property")

The Parties:-

Mr Vojtech Gombar residing at Flat 2/1, 624 Cathcart Road, Glasgow, G42 8AA
("the tenant")

and

Mr Mahmud Ali residing at 62 Shawmoss Road, Maxwell Park, Glasgow, G41 4AD ("the landlord")

Notice to Mr Mahmud Ali

Whereas in terms of the decision dated 20 May 2011 the Private Rented Housing Committee determined that the landlord had failed to comply with the duty imposed by Section 14(1)(f) of the Housing (Scotland) Act 2006 and in particular the landlord had failed to ensure that:-

- (a) The house was wind and water tight

The Private Rented Housing Committee now requires the landlords to carry out such work as is necessary for the purpose of ensuring that the house concerned meets the repairing standard and that any damage caused by the carrying out of the works in terms of the order is made good.

The Private Rented Housing Committee requires the landlords to carry out such works as are necessary to:-

- Repair and re-glaze the broken window within the kitchen

The Private Rented Housing Committee orders that the works specified in this order must be carried out within 21 days of the date of this Order.

A landlord or tenant aggrieved by the decision of the Committee may appeal to the Sheriff by summary application within 21 days of being notified of that decision. The appropriate respondent in

Effects of Section 63

28. Where such an appeal is made, the effect of the decision and of any Order made in consequence of it is suspended until the appeal is abandoned or finally determined.
29. Where the appeal is abandoned or finally determined by confirming the decision, the decision and the Order made in consequence of it are to be treated as having effect from the day on which the appeal is abandoned or so determined.

Signed **J Bauld**

Date 20 May 2011

James Bauld, Chairperson

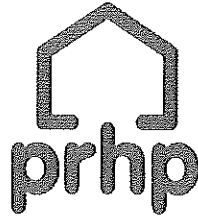
Signature of Witness... **G Williams**

Date 20/5/11

Name: Gillian Williams

Address: 7 West George Street, Glasgow, G2 1BA

Designation: Senior Court Administrator



Determination by Private Rented Housing Committee

Statement of Reasons for Decision of the Private Rented Housing Committee

(Hereinafter referred to as "the Committee")

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

Case Reference Number: PRHP/G42/23/11

Re:- Property at Flat 2/1, 624 Cathcart Road, Glasgow, G42 8AA ("**the property**")

Land Register Title Number:- **GLA202953**

The Parties:-

Mr Vojtech Gombar residing at Flat 2/1, 624 Cathcart Road, Glasgow, G42 8AA ("**the tenant**")

And

Mr Mahmud Ali residing at 62 Shawmoss Road, Maxwell Park, Glasgow, G41 4AD ("**the landlord**")

The Committee comprised:-

Mr James Bauld	- Chairperson
Ms Sara Hesp	- Surveyor member
Mr Christopher Harvey	- Housing member

Decision

The Committee unanimously decided that the Landlord had failed to comply with the duties imposed by Section 14(1) of the Housing (Scotland) Act 2006 ("the 2006 Act"). The Committee accordingly proceeded to make a repairing standard enforcement order (RSEO) as required by Section 24(2) of the 2006 Act

Background:-

1. By application dated 2 February 2011, the tenant applied to the Private Rented Housing Panel ("PRHP") for a determination that the landlord had failed to comply with the duties imposed by Section 14 (1) of the 2006 Act.

2. Receipt of the application was acknowledged by the PRHP on 4th February 2011 and after further correspondence the President of the PRHP decided to refer the application to a Private Rented Housing Committee. Notice of that referral was made by letters dated 11th February 2011.
5. On 5th April 2011, the Committee served notice of referral on all parties in terms of the relevant provisions of the 2006 Act. The notice of referral indicated that an inspection and hearing would take place on 27th April 2011 at 10.45 am.

The Inspection

6. The Committee inspected the property on 27th April 2011. The tenant was present during the inspection together with his representative Ms Simpson from Govanhill Law Centre. The landlord was also present during the inspection. During the course of the inspection and subsequent hearing, the Committee were assisted by an interpreter, Arlena Linhartov, to assist with interpretation for the tenant. Mr David Bartos, legal member of the PRHP attended the inspection and hearing as an observer.

Summary of issues

7. The issue complained of in the application before the Committee as set out in the original application was that there was a hole in the bathroom ceiling due to water ingress. Prior to the hearing, the representative of the tenant wrote to the Panel indicating that further matters had now arisen, namely a broken window and a fault in the hot water cistern and the boiler within the property.

The Evidence

8. The evidence before the Committee consisted of:-
 - The application form
 - Copy tenancy agreement
 - Extract of title from the Land Register
 - Copy of correspondence between the parties and PRHP

The Hearing

9. At the conclusion of the inspection the Committee held a hearing within the offices of the PRHP in Glasgow. The tenant and landlord were both present during the hearing. The tenant was represented by Ms Simpson from Govanhill Law Centre. The landlord's wife Mrs Cherie Ali was also present during the hearing. Again during the hearing the Committee were assisted by the services of the interpreter Ms Arlena Linhartova. The Committee hearing and inspection was also observed by Mr David Bartos a newly appointed member of the PRHP. Mr Bartos was present only as an observer.
10. At the hearing, the Committee were addressed by the tenant's representative. On behalf of the tenant it was stated that the ceiling in the bathroom had collapsed due to water ingress from above. It was stated that the tenant had telephoned the landlord who had come out to look at the damage but had not fixed the problem. Thereafter the tenant had contacted his representative who had entered into correspondence with the landlord's agents. They had then proceeded to make the application to the PRHP. The tenant's representative indicated that the hole in the ceiling was still present at the current date. The tenant's position was that the hole in the ceiling meant that the property was not properly wind and water tight and the property was not in a reasonable state of repair and accordingly failed the duty set out in the 2006 Act.

11. In addition, the tenant indicated that the window to the kitchen had been broken by vandals on or around 3rd April 2011. He had contacted his landlord by telephone. The tenant also indicated that the boiler within the property was not working and that he had no hot water or heating. It was indicated that this had been an intermittent issue and that it had previously been repaired. The tenant's position was that the boiler was not in a proper state of repair and did not meet the repairing standard. It was an installation within the property and required to be in a reasonable state of repair. The tenant's representative took the view that the broken window rendered the property not wind and water tight.
12. The landlord then addressed the Committee. He indicated that when the tenancy started the landlord had been his sister-in-law, Mrs Ghafoor. He had bought the house and had taken over as the landlord. The landlord indicated that there were substantial rent arrears with this tenancy and indicated that nothing had been paid at all by Mr Gombar since the tenancy had commenced. The landlord indicated that if he was not being paid rent he could not afford to carry out repairs and indicated his position that if he was not paying rent then the repairing standard should not apply.
13. The landlord indicated that the boiler had been repaired two months previously and that the engineer who had attended had indicated that someone was "fiddling with it".
14. With regard to the broken window, the landlord's position was that he did not believe it was possible for vandals to have broken the window. The window was at the rear of the property and was on the second floor. He did not believe it was possible for small children to throw stones which could break the window. The landlord believed that the window had been broken by the tenant or persons in the house with the permission of the tenant.
15. The landlord also indicated that on a previous visit there had been 15 or 16 people in the property and he believed the property had been occupied at that stage by 15 or 16 people.
16. With regard to the bathroom ceiling the landlord indicated that the problem with the water ingress had been resolved and that no repairs were required to the ceiling.
17. He also indicated that although he had a service contract with British Gas to carry out repairs to the boiler, the engineer was now refusing to attend because of the constant complaints being made by this tenant and the alleged interference with the boiler by the tenant.
18. The landlord accepted the window was broken at the date of inspection.
19. The hearing then heard evidence from both parties regarding the number of persons who had been in occupation of the flat and the manner in which the tenant came to be the tenant of the property. The Committee simply treated this information as background information and did not regard it as having any significant relevance to the matters in hand. It appeared to be accepted that at the date of the hearing, the property was only being occupied by the tenant, his wife and his own children.

Findings of Fact

20. Having considered all the evidence the Committee found the following facts to be established:-
 - (a) The subjects of let are a flatted dwellinghouse situated within a blonde sandstone tenement which extends to four storeys in height. The property is located on the second floor and consists of 3 rooms, kitchen, bathroom and hall. The property is approximately 120 years old.

- (b) The tenant occupies the property with his wife and children. The property internally is generally in poor condition.
- (c) Within the bathroom to the property, there is a false lowered ceiling. Above that false lowered ceiling is a cavity and it is possible to see the joists which support the floor of the flat above. Within that cavity the various pipes which serve the bathroom on the floor above are also visible. There is no evidence of any damage to the false lowered ceiling nor was there any evidence of ongoing water ingress.
- (d) Within the kitchen of the property was a gas boiler. On the date of the inspection it appeared to the Committee that the boiler was working and the Committee were not able to determine whether there was any fault with the boiler.
- (e) Within the kitchen to the property, the window was broken. The glass had been removed and had been covered by cardboard which had been secured by sticky tape.

Reasons for Decision

- 21. The Committee considered the various issues set out by the parties and determined that the property did not meet the repairing standard with regard only to the broken window. The repairing standard does not require a level of perfection. The standard indicates that a property requires to be reasonably fit for human habitation and that appliances/fixtures require to be in a reasonable state of repair.
- 22. The Committee took the view that the condition of the bathroom ceiling did not indicate that the property was not wind and water tight. The Committee took the view that the bathroom ceiling was in a reasonable state of repair.
- 23. The Committee were satisfied that the window within the kitchen was broken. While the Committee heard the differing views of the parties as to the cause of the window being broken, the Committee were not able to ascertain which version was correct. Accordingly the Committee could only take the view that the window was broken and that a broken window rendered the property not wind and water tight. Accordingly the broken window meant that the repairing standard was breached and the landlord is required to remedy that breach.
- 24. The Committee also took the view that the boiler within the property was apparently working during their inspection and accordingly could not determine that it was not working and were unable to determine that it was not in a reasonable state of repair nor in proper working order.
- 25. The decision of the Committee was therefore to grant a repairing standard enforcement order in respect of the broken window and the decision of the Committee was unanimous.

Rights of Appeal

- 26. A landlord or tenant aggrieved by the decision of the Committee may appeal to the Sheriff by summary application within 28 days of being notified of that decision.
- 27. The appropriate respondent in such appeal proceedings is the other Party to the proceedings and not the PRHP of the Committee which made the decision.

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Where such an appeal is made the effect of the decision or of the order is suspended until the appeal is abandoned or finally determined. Where the appeal is abandoned or finally determined by confirming the decision, the decision and the order are to be treated as having effect from the day on which the appeal is abandoned or so determined.

Signed **J Bauld**
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Date *20 May 2011*
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James Bauld, Chairperson

Signature of Witness.. **G Williams**
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Date *20/5/11*
.....

Name: Gillian Williams

Address: 7 West George Street, Glasgow, G2 1BA

Designation: Senior Court Administrator