



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

prhp Ref: PRHP/DD3/76/13

Re: Property at 2/1, 60 Provost Road, Dundee, DD3 8AH ("the Property")

Sasine description: ALL and WHOLE the subjects known as Flat 2/1, 60 Provost Road, Dundee, DD3 8AH being the northmost second floor flat of the tenement known as and forming 60 Provost Road, Dundee and being the subjects more particularly described in and disposed by Disposition by Dundee Investment Holdings Limited in favour of Tayside Housing Development Limited recorded in the Division of the General Register of Sasines for the County of Angus on 27 November 1985

The Parties:-

HARJIT SIDHU residing at 6 Muirfield Place, Dundee, DD3 8PR ("the Landlord")

JOSEPH WILLIAMSON residing at 2/1, 60 Provost Road, Dundee, DD3 8AH ("the Tenant")

NOTICE TO HARJIT SIDHU ("the Landlord")

Whereas in terms of their decision dated 17 February 2014, 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 and in particular that the landlord has failed to ensure that:-

- (a) The Property is wind and watertight and in all other respects reasonably fit for human habitation;
- (b) The structure of and exterior of the Property (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order;
- (c) The installations in the Property 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;
- (d) Any fixtures, fittings and appliances provided by the Landlords under the tenancy are in a reasonable state of repair and in proper working order;
- (e) The Property 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 house concerned 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:-

- (a) To carry out such works to the electrical installation and system within the Property as are required to allow the issue of an electrical installation condition report confirming that the Property meets the relevant regulations. Such works should include ensuring that the shower at the Property is in proper working order.
- (b) To carry out such works of repair to the kitchen sink/external downpipe to ensure that the leak is repaired and that the repairing standard is met.
- (c) To identify and remediate the cause of water penetration into the front elevation of the Property and to carry out any redecorative works caused by the remedial work.
- (d) To repair the window in the bedroom to ensure that it meets the repairing standard.

- (e) To provide new carpets to the Property for the bedroom and hall.
- (f) To carry out such works of repair or replacement to the doors to the bedroom and bathroom sufficient to ensure that these doors can be opened and closed properly.
- (g) To install a hardwired smoke detection system compliant with the relevant regulations.

The Private Rented Housing Committee order that the works specified in this Order must be carried out and completed within the period of 2 months from the date of service of this Notice.

A landlord or a 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 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.

In witness whereof these presents type written on this and the preceding page are executed by Ewan Kenneth Miller, Solicitor, Whitehall House, 33 Yeaman Shore, Dundee, DD1 4BJ, Chairperson of the Private Rented Housing Committee at Dundee on 17 February 2014 before this witness:-

L Johnston

witness

E Miller

Chairman

Lindsay Johnston
Secretary
Thorntons Law LLP
Whitehall House
33 Yeaman Shore
Dundee
DD1 4BJ



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

prhp Ref: PRHP/DD3/76/13

Re: Property at 2/1, 60 Provost Road, Dundee, DD3 8AH ("the Property")

The Parties:-

JOSEPH WILLIAMSON residing at 2/1, 60 Provost Road, Dundee, DD3 8AH ("the Tenant")

HARJIT SIDHU residing at 6 Muirfield Place, Dundee, DD3 8PR ("the Landlord")

Decision

The Committee, having made such enquiries as it saw 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 determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

Background

1. By application dated 5 April 2013 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 by the Tenant 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 Property is wind and watertight and in all other respects reasonably fit for human habitation;
 - (b) The structure of and exterior of the Property (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order;
 - (c) The installations in the Property 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;
 - (d) Any fixtures, fittings and appliances provided by the Landlords under the tenancy are in a reasonable state of repair and in proper working order;
 - (e) Any furnishings provided by the Landlords under the tenancy are capable of being used safely for the purpose for which they are designed;
 - (f) The Property has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.
3. By letter dated 11 November 2013 the President of the Private Rented Housing Panel intimated a decision to refer the application under Section 22 (1) of the Act to a Private Rented Housing Committee.

4. The Private Rented Housing Committee served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon both the Landlord and the Tenant.
5. Following service of the Notice of Referral the Tenant made no further written representations to the Committee other than the original application. The Landlord via an undated letter from his solicitor made no written representation to the Committee.
6. The Private Rented Housing Committee inspected the Property on the morning of 3 February 2014. The Committee comprised Mr E K Miller, Chairman and Legal Member; Mr C Reid-Thomas, Surveyor Member; and Mr J Blackwood, Housing Member. The Tenant was present. The Landlord was not present nor represented.
7. Following the inspection of the Property the Private Rented Housing Committee held a Hearing at the Douglas Community Centre, Balmoral Avenue, Dundee. The Committee heard from the Tenant. The Landlord was not present or represented.
8. The Tenant submitted that his Property did not comply with the repairing standard. He had been trying to contact the Landlord for a number of years to have repairs carried out. Whilst various promises had been made by the Landlord no substantive works had been carried out. The Tenant was particularly concerned regarding the electrical system within the flat which he felt was unsafe. There was also water penetration into the flat and a lack of smoke detectors. Accordingly the Tenant was concerned at the condition of the Property he was being provided with.
9. The Landlord had made no substantive representations to the Committee. A letter from a Property Manager at Campbell Boath, Solicitors had been sent to the Committee on behalf of the Landlord. This letter was undated but stated that the Landlord claimed to have been prevented from having access to the Property and to being racially abused by the Tenant's sister. The letter also enclosed a letter from the Police regarding complaints made by the Landlord against the Tenant. However this was dated 2 October 2012. No relevant submissions had been made by the Landlord in relation to the condition of the Property itself.

Summary of the issues

10. The issues to be determined were:-
 - (1) Whether the electrical system within the Property was safe and met the repairing standard.
 - (2) Whether the shower at the Property was in proper working order.
 - (3) Whether the outside downpipe from the kitchen was in proper working order and met the repairing standard.
 - (4) Whether there was water penetration into the Property through the windows and whether the window frames themselves required remedial work.
 - (5) Whether the flat needed redecorated.
 - (6) Whether the bedroom and bathroom doors fitted.
 - (7) Whether there was a proper working smoke detection system in the Property compliant with the relevant regulations.
 - (8) Whether the window in the bedroom was in proper working order and needed to be repaired in order that it both tilted and turned correctly.

Findings of fact

11. The Committee found the following facts to be established:-

- (1) The electrical system within the Property did not appear to be in proper working order and compliant with the relevant Regulations.
- (2) The shower at the Property was not in proper working order.
- (3) There was a leak from the downpipe leading from the kitchen sink.
- (4) There was evidence of water penetration into the flat above the lounge and bedroom windows. The windows themselves were in reasonable order although the bedroom window required repair. The other windows in the Property met the repairing standard.
- (5) The Property did not need redecorated. However the carpets in the bedroom and hall required to be replaced.
- (6) The bedroom and bathroom doors did not meet the repairing standard.
- (7) There was no compliant smoke detection system within the Property.

Reasons for the decision

12. The Committee based its decision primarily on the evidence obtained during the course of the inspection.

The Tenant was dissatisfied with the electrical system within the Property. The Committee noted the strip light in the kitchen did not work, despite the Tenant stating he had replaced the starter. The bathroom light kept sparking, although it did finally light. It seemed clear to the Committee that this was unsafe. The Committee also noted that the electric shower in the bathroom was not working. Accordingly the Committee were satisfied that the Landlord would require to carry out such works of repair or replacement to the electrical system as were necessary to allow the issue of an electrical installation condition report confirming that all the electrical system and items within the Property met the relevant regulations.

The Tenant turned on the kitchen tap whilst the Committee viewed the rear elevation of the Property. It was readily apparent that the downpipe from the kitchen sink was broken. A large volume of water was escaping from the downpipe at the rear of the Property. This was falling onto the flats below and was already causing considerable damage to the exterior of the building. The Landlord would require to rectify this.

The Committee inspected the areas around the front facing windows, being the lounge and bedroom windows. In the lounge it was clear that there was water penetrating into the flat and that this was causing high levels of moisture to be present in the ceiling and surrounding walls. The Landlord would require to identify the source of the water penetration and to carry out remedial works to prevent future water ingress. The Landlord would also require to carry out any redecoration rendered necessary by the remedial works. There was also some evidence of water penetration in the bedroom, albeit to a lesser extent. Again the Landlord would require to investigate and remediate. The Committee also noted that the window in the bedroom was not in proper working order. The window was a "tilt and turn" window but it appeared that one of the catches was broken and it was not operating correctly. The Landlord would require to address this. The other windows in the Property appeared to meet the repairing standard.

The Committee noted that the Tenant had been in the Property for many years. The Property had been carpeted upon the Tenant taking entry. The Committee noted that the hall carpet had become so worn the Tenant had had to remove this. The bedroom carpet was also exhibiting significant signs of wear and tear. Accordingly the Landlord would

require to replace these two carpets. The Committee was of the view that whilst the general décor within the flat was a little shabby nonetheless it was the Tenant's responsibility to maintain. The Committee tested the bedroom and bedroom door. The bathroom door was incapable of being closed properly. The bedroom door, whilst difficult to close, could be closed properly with a degree of force. The Committee was of the view that both doors required to be attended to and works of repair or replacement were required to ensure that the doors could both open and shut smoothly.

The Committee noted that there was no hardwired smoke detection system as required in terms of the relevant regulations. Accordingly the Landlord would require to install a compliant system forthwith.

The Committee considered the length of time that the Landlord would require to carry out these works. The Committee were of the view that whilst there were a number of items that required attention none of these were particularly significant and all matters could be rectified relatively swiftly. Accordingly the Committee was satisfied that a two month period to carry out the works was appropriate in the circumstances.

Decision

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

Right of Appeal

16. **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

17. 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 **E Miller** Date **18/2/16**

Chairperson