



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

prhp Ref: DD2/90/12

Re : Property at 3 Briarwood Terrace, Dundee DD2 1NX ("the Property")

Title No: ANG3091

The Parties:-

Springfield Properties Group Limited, incorporated under the Companies Acts (SC305697) and having their Registered office at c/o Accel Business Llp, 4 Valentine Court, Dunsinane Industrial Estate, Dundee DD2 3QB("the Landlord")

Lee Krzyzanowski, 3 Briarwood Terrace, Dundee DD2 1NX ("the Tenant")

NOTICE TO Springfield Properties Group Limited ("the Landlord")

Whereas in terms of their decision dated 12 July 2012, 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 house is wind and watertight 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 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 as are necessary to repair the leaking joints in the existing external gutters to the rear of the property or to replace the gutters;
- (b) to carry out such works as are necessary to clean down the rear stonework and remove the vegetation from the rear wall of the property; and
- (c) to monitor for a period of at least three months the internal walls, ceilings and window surrounds as they dry out, to ensure that the property is watertight, then make good as necessary and redecorate

The Private Rented Housing Committee order that the works specified in this Order must be carried out and completed within the period of three 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 typewritten on this page are executed by George Barrie Clark, solicitor, chairperson of the Private Rented Housing Committee at Edinburgh on 12 July 2012 before this witness:-

V Clark

witness

G Clark

chairman

Valerie Elizabeth Jane Clark, 7 Newbattle Terrace, Edinburgh EH10 4RU



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

prhp Ref: DD2/90/12

Re : Property at 3 Briarwood Terrace, Dundee DD2 1NX ("the Property")

The Parties:-

Lee Krzyzanowski, 3 Briarwood Terrace, Dundee DD2 1NX ("the Tenant")

Springfield Properties Group Limited, incorporated under the Companies Acts (SC305697) and having their Registered Office at c/o Accel Business Llp, 4 Valentine Court, Dunsinane Industrial Estate, Dundee DD2 3QB ("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, and taking account of the evidence led by the Tenant at the hearing, 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 27 April 2012 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 house is wind and water tight and in all other respects fit for human habitation; and
 - (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.
3. By letter dated 10 May 2012 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 Tenants.
5. Following service of the Notice of Referral the Tenant (by letter dated 17 May 2012), made written representations to the Committee. The Landlord made no written representations to the Committee.
6. The Private Rented Housing Committee inspected the Property on the morning of 12 July 2012. The Tenant was present during the inspection. The Landlord was not present or represented during the inspection. The Committee members were George Clark (chair), Geraldine Wooley (surveyor) and John Wolstencroft (housing member).

7. Following the inspection of the Property the Private Rented Housing Committee held a hearing at Menziesshill Community Centre, Dundee and heard from the Tenant. The Landlord was not present or represented at the hearing.
8. The tenant submitted as follows:- He had first noticed water penetration through the flat roof of the property at the end of December 2011. This had been reported to the Landlord by e-mail on 2 January 2012. Water had penetrated into the master bedroom, the spare bedroom, the bathroom and the dining room, causing damage to the internal walls of the master bedroom and bathroom and to the underside of the window lintels in the master bedroom and the dining room. Following the Tenant's application to the Private Rented Housing Panel, the landlord had replaced the flat roof of the Property but, otherwise, had not carried out any of the necessary repairs. The work had been completed two weeks prior to the hearing and, despite the fact that there had been exceptionally heavy and persistent rain in the intervening period, the water penetration seemed to have stopped. His ongoing concerns were, therefore, the condition of the gutters and downpipes at the rear of the Property and the crack in the glass in the skylight window in the bathroom. The skylight had been in its present condition at the start of the tenancy and had not been leaking at that time, but more recently had occasionally leaked during wet weather. The roofing contractors who had replaced the flat roof had told him that the drip edge between the roof and the gutters had disintegrated and his view was that rainwater had been failing to reach the gutter and had been running behind it directly on to the rear wall of the Property. The Tenant was concerned that, having already decorated a number of the rooms affected by the water penetration, it was possible that replastering would be required and redecoration would certainly be necessary when the walls dried out, but it did appear to him that the cause of the water penetration had been fixed by the roof replacement.

Summary of the issues

9. The issues to be determined are whether the Property meets the repairing standard as laid down in Section 13 of the Act and whether the Landlord has complied with the duties imposed on him by Section 14(1)(b) of the Act.

Findings of fact

10. The Committee finds the following facts to be established:-
 - The tenancy is a Short Assured Tenancy, commencing on 2 August 2010 and ending on 31 July 2014.
 - The Property comprises the ground and first floor premises of a former self-contained mid-terraced villa, the basement floor of which has been converted into a separate dwellinghouse. The Property has a small area of garden ground to the front.
 - The flat roof of the Property appears to have been recently replaced. It could not be seen at the inspection, which was carried out from the ground floor, but the remnants of the previous flat roof were lying in the garden.
 - There was evidence of internal damage, probably caused by penetrating water, to both sides of the partition wall between the master bedroom and the bathroom and to the underside of the lintels above the windows in the master bedroom, the spare bedroom and the dining room. The Committee could not, however, find any evidence of ongoing water penetration.
 - The glass in the skylight window in the bathroom was cracked and appeared to have been repaired using mastic tape.
 - The guttering to the rear of the Property had a number of leaking joints.
 - There was evidence of green staining below the guttering to the west side of the window of the master bedroom and of actual vegetation growth immediately below the guttering. In addition, there were holes in the pointing beneath the guttering.

Reasons for the decision

11. The Committee could not find evidence of ongoing water penetration in the Property, despite the recent very wet weather and agreed with the Tenant that the replacement of the flat roof appeared to have dealt with the problem of water ingress. It was, however, concerned that, as the roof had been replaced only two weeks previously, the affected walls and areas beneath the window lintels had not had time to dry out and there remained a risk that problems might become evident during the drying out period. The Committee was also of the view that the Tenant had not been responsible for the water penetration and that, as it had affected areas that he had previously decorated, he should not be liable for the cost of making good any damage to these areas or of redecoration. The Committee noted that, in terms of his Lease, the Tenant was responsible for the cost of restoring and repairing all cracked or broken glass and determined that, as the Tenant had confirmed that the skylight in the bathroom window, whilst cracked at the commencement of the tenancy had not at that time been leaking, it would not be appropriate to require the Landlord to meet the expense of replacing it, should the Tenant wish this work to be carried out. The Committee was of the view that the stonework on the rear elevation should be cleaned down in order to remove the green stain and the vegetation growth and that the leaking joints in the gutters to the rear of the Property should be repaired (or, if necessary, replaced).

Decision

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

Right of Appeal

15. 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

16. 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.

G Clark

Signed Date... 12 July 2012
Chairperson