



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

PRHP/DD4/66/13

Search Sheet Number 30853

Re:

All and whole the subjects known as Flat 7, 32 Lyon Street, Dundee, DD4 6RD being the subjects more particularly described in the disposition to Elizabeth Anton Dawson or MacLachlan recorded in the General Register of Sasines 10 March 1960.

("the Property")

The Parties:-

Mr Kevin Kane and Miss Shirley-Ann Christie resident at the Property

("the Tenants")

and

Mr Juned Mahomed, 87 Prospect Hill, Leicester, LE5 3RT

("the Landlord")

The Committee comprised:

Mr Ron Handley – Chairperson

Mr Angus Anderson – Surveyor

NOTICE TO THE LANDLORD

In terms of their decision dated 30 day of August 2013, the Private Rented Housing Committee determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006.

The Private Rented Housing Committee now requires the Landlord to carry out the following works (or other such works as are necessary for the purposes of ensuring that the Property meets the Repairing Standard):

- (a) Replace the drop light in the kitchen.
- (b) Replace the broken socket in the bedroom.
- (c) Repair or replace the extractor fan in the shower room.

- (d) Carry out investigations to identify the source of water ingress in the area above the living room window and ensure that repairs are carried out to remedy this defect.
- (e) Carry out such repairs as are necessary to ensure that the right-hand side window in the living room is in a reasonable state of repair, is wind and water tight and is in proper working order.
- (f) Carry out such repairs as are necessary to ensure that the inlet and/or outlet pipes under the kitchen sink are not leaking and are in proper working order.
- (g) Replace or repair the doors in the living room, kitchen and bedroom to ensure that they are in a reasonable state of repair and in proper working order.
- (h) Replace the shower cabinet doors with doors or shower curtains and ensure that they are in proper working order. Replace the decayed timber at the front of the shower unit.
- (i) Repair or replace the cracked WC and make good the adjacent wall finishes.
- (j) Repair the bottom step at the entrance door to the common stairway.

The Private Rented Housing Committee order that the works specified in this Order must be carried out and completed within the period of 4 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 this and the preceding page are subscribed by Ron Handley, Solicitor, Chairperson of the Private Rented Housing Committee at Dunbar on the 30 day of August 2013 before this witness:

N Handley

Witness

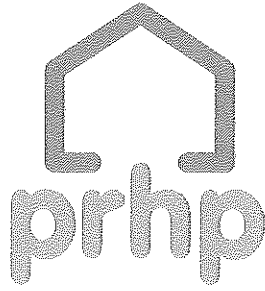
NAOMI HANDLEY name of witness

23 LESLIE WAY, DUNBAR address of witness

EH42 1GP

R Handley

Chairperson



PRIVATE RENTED HOUSING COMMITTEE

STATEMENT OF REASONS

PROPERTY:

Flat 7, 39 Lyon Street, Dundee DD4 6RD



Decision by the Private Rented Housing Committee

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

PRHP/DD4/66/13

Search Sheet Number: 30853

Re: The residential dwellinghouse at

Flat 7
39 Lyon Street,
Dundee DD4 6RD

("the Property")

The Parties:-

Mr Kevin Kane and Miss Shirley-Ann Christie resident at the Property

("the Tenants")

and

Mr Juned Mahomed
87 Prospect Hill
Leicester
LE5 3RT

("the Landlord")

The Committee comprised:

Mr Ron Handley – Chairperson
Mr Angus Anderson – Surveyor

The Committee's Decision

The Committee, having made such enquiries as it saw fit for the purposes of determining whether the Landlord had complied with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 ("the Act") in relation to the Property, and taking account of the evidence before it, unanimously determined that the Landlord had failed to comply with the duty imposed by Section 14(1)(b). The Committee therefore requires that the Landlord carry out such works as are necessary to ensure that the Property meets the Repairing Standard and that any damage caused by the carrying out of any such works is made good. The Committee issued a Repairing Standard Enforcement Order.

The Background

1. The Tenants applied to the Private Rented Housing Panel ("the PRHP") for a determination as to whether or not the Landlord had failed to comply with the duties imposed by Section 14(1)(b) of the Act.
2. Following receipt of the application, the President of the PRHP intimated that the application should be referred to a Private Rented Housing Committee in accordance with Section 22(1) of the Act.
3. An inspection of the Property was arranged for 6 August 2013 at 10.30 am. A Hearing was arranged to take place after the inspection at Douglas Community Centre, Balmoral Avenue, Dundee.
4. The Committee duly attended at the Property on 6 August 2013 at 10.30 am. The Tenants were present with Ms McKenzie (a Support Worker). Mr Aboobaker, Mr Bradley and Mr Davidson (all on behalf of the Landlord) were in attendance at the inspection. All those present at the inspection also attended the Hearing (with the exception of Miss Christie).

The Application

5. In their application the Tenants submitted that the Landlord had failed to comply with his duty to ensure that the Property met the Repairing Standard (as defined in the Act). It was suggested that the Landlord had failed to ensure that the Property was wind and watertight and in all respects reasonably fit for human habitation. It was submitted that the structure and exterior of the property was not in a reasonable state of repair and not in proper working order and that the installations in the Property for the supply of water, gas and electricity and for sanitation, space heating and heating water were not in a reasonable state of repair and not in proper working order. It was also suggested that any fixtures, fittings and appliances provided by the Landlord were not in a reasonable state of repair or in proper working order. Moreover, the furnishings provided by the Landlord under the Tenancy Agreement were not capable of being used safely for the purposes for which they were designed. Finally it was suggested that the Property did not have satisfactory provision for detecting fires and giving warning in the event of fire or suspected fire.
6. In particular, in their application the Tenants suggested that:
 - (a) the replacement cooker was faulty, the cabling was dated, the kitchen light drop was damaged, the electric fire in the living room was old and there were exposed wires in the plug (in the electric fire), there was a broken socket in the bedroom and the extractor fan in the shower room did not work;
 - (b) there was no smoke detector within the Property;

- (c) there was water penetration in the living room window area;
- (d) there were no carpets in the hall or shower room;
- (e) the right hand window in the living room window was not in proper working order and it leaked during rainfall;
- (f) there was dampness under the kitchen sink;
- (g) the washing machine door did not close;
- (h) the living room, kitchen and bedroom doors were badly damaged, the Yale lock on the internal entrance door to the Property was broken and the wardrobe doors were detached from the runners;
- (i) the timber step leading to the shower cabinet was badly decayed and there was no shower door;
- (j) the WC had been replaced but the cistern was slightly cracked and the wall behind the system had not been redecorated and was left with holes in it;
- (k) there were cracks in the panes of glass in some of the windows in the communal stair, sash cords were broken and the glass above the entrance door was cracked;
- (l) the front and rear rhone pipes were badly choked;
- (m) the vent pipe was broken;
- (n) the top landing light fitting cover was loose, there was no cover on the second landing light and the first landing light cover was ill fitting;
- (o) the cement at the bottom step at the front entrance to the communal stairway was breaking up;
- (p) there was slight scaling and weathering of the stonework particularly at the front of the Property;
- (q) the timbers above the kitchen window required to be repainted.

The Evidence

7. In considering this application the committee had before it various documents, including a copy of the Tenancy Agreement, the Application Form and copies of various letters to and from the Tenant and the Landlord.

The Hearing

8. As indicated, a number of people attended the Hearing which was held immediately after the inspection. The Chairman welcomed everyone and summarised the background to the application. He reminded the parties that the role of the Committee was to determine whether or not the Repairing Standard had been met (as defined in the Act). The evidence at the Hearing can be briefly summarised as follows.
9. In regard to the area of dampness within the living room (above the windows) Mr Bradley thought that the dampness had been caused by a blocked rhone pipe. He was of the view that this matter would need to be referred to the City of Dundee Council, since responsibility for any repairs lay with all the owners of flats within the tenement block.
10. In regard to the defective cooker, Mr Kane accepted that a cooker had been left in the Property by the previous tenant and that he had not attempted to see if it worked properly. In any event he had arranged for it to be disposed of. Mr Bradley confirmed that the cooker had been left by a previous tenant.
11. In regard to the dampness under the kitchen sink, Mr Bradley accepted this was a problem and required to be remedied.
12. In regard to the state of repair of the doors in the kitchen, living room and bedroom, Mr Kane explained that attempts had been made to effect repairs to some of the doors. Mr Bradley accepted that they were not in a reasonable state of repair. He indicated that it was his intention to replace all the internal doors. Mr Kane accepted that the internal entrance door to the Property was in a reasonable state of repair and that he was able to lock it using the Yale lock.
13. In regard to the shower doors Mr Bradley accepted that they were not in proper working order and he undertook to replace the existing doors. He also agreed to effect repairs to the cracked WC (Mr Kane accepted that the WC was not leaking).
14. Mr Kane advised that the light in the kitchen did not always function properly. Mr Anderson suggested that this may be because of the age of the fitting and exposure to heat over time. He suggested that the light fitting required to be replaced. It was accepted that the bedroom socket was broken.
15. Mr Kane advised that he had repaired the exposed wires in the plug of the electric fire in the living room and that the electric fire now worked properly.
16. It was accepted that the extractor fan in the shower room was not working.

17. In regard to the carpets. Mr Bradley advised that he was uncertain if there had previously been carpets in the hall and shower room but he was willing to provide them.
18. Although not raining at the time of the inspection, Mr Anderson advised that it appeared that the right hand window in the living room was not in proper working order. This was not disputed at the Hearing.
19. It was accepted that the smoke detector was in proper working order.
20. Mr Kane confirmed that he owned the washing machine.
21. It was accepted that the lower step at the entrance to the communal stair was not in a reasonable state of repair.
22. Prior to concluding the Hearing there was a discussion of the issues regarding the communal stair and the external condition of the building.

Summary of the issues

23. The issue to be determined by the Committee was whether the Landlord had complied with the requirements of the Act in ensuring that the Property met the Repairing Standard.

Findings

24. The Committee found the following facts to be established:
 - The Property is a top floor one bedroom flat in a four-storey block of tenements flats.
 - On 6 June 2012 the Tenants and the Landlord entered into a Short Assured Tenancy Agreement which related to the Property.
 - The electrical wiring within the Property appears adequate.
 - There is presently no cooker within the Property – the Tenants disposed of a cooker which had been left by a previous tenant.
 - The drop light in the kitchen is defective and not in proper working order and requires to be replaced.
 - The socket in the bedroom is broken and requires to be replaced.
 - The electric fire in the living room has been repaired and is in proper working order.
 - The extractor fan in the shower room is not in proper working order and requires to be repaired or replaced.
 - The smoke alarm within the Property is in proper working order.

- There is water ingress in the ceiling area above the living room window and remedial works are required to prevent this water penetration.
- There are no carpets in the hall or in the shower room.
- The right-hand side window in the living room is not in a reasonable state of repair, is not wind or water tight and requires to be repaired or replaced.
- The inlet and/or outlet pipes under the kitchen sink are leaking and are not in proper working order and repairs are required.
- The washing machine in the kitchen is owned by the Tenants and was not included as part of the Tenancy Agreement.
- The living room, kitchen and bedroom doors are not in a reasonable state of repair and require to be repaired or replaced. The internal entrance door to the Property is in a reasonable state of repair. The Yale lock on this door is in proper working order.
- The wardrobe doors do not open or close properly. However this is because of the actions of the Tenants.
- The shower cabinet doors are ill-fitting doors and consequently water leaks onto the floor when the shower is being used. The shower cabinet doors are not in proper working order and require to be replaced. The timber at the base of the shower is decayed and requires to be replaced.
- The WC is cracked and is not in a reasonable set of repair and requires to be repaired or replaced.
- The covers of some of the light fittings in the common stairway are missing. However they are in working order. Some of the window panes are cracked and the sash cords on the uppermost window of the common stair are broken. However, that window can be opened. Given the age and character of the building, the windows and lights in the common stairway are in a reasonable state of appear.
- The rhone pipes appear to be in a reasonable state of repair and in proper working order.
- The external vent pipe for the Property is in a reasonable state of repair.
- The bottom step at the entrance door to the common stairway is damaged and is not in a reasonable state of repair. It requires to be repaired.

- There is some weathering of the external stonework of the Property but the stonework is in a reasonable state of repair.
- The timbers above the kitchen window are in a reasonable state of repair.

Decision

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

Reasons

- It appeared from the inspection that overall, the electrical wiring within the Property although dated was adequate and that the Tenants had experienced no problems with it.
- A previous tenant had left a cooker within the Property and the Tenants had disposed of it without the approval of the Landlord. The Committee noted that the provision of a cooker was not part of the Tenancy Agreement. In all these circumstances the Committee made no order in regard to the cooker.
- It was clear from the inspection that the drop light in the kitchen was defective and not in proper working order and requires to be replaced. This was accepted at the Hearing.
- It was clear at the inspection that the socket in the bedroom is broken and requires to be replaced.
- The electric fire in the living room has been repaired by the Tenants and is in proper working order. The Committee made no order in regard to the electric fire in the living room.
- It was clear at the inspection (and accepted at the Hearing) that the extractor fan in the shower room was not in proper working order and requires to be repaired or replaced.
- It was noted at the inspection that the smoke alarm within the Property was in proper working order.
- As indicated, it was accepted at the Hearing that there was water ingress in the ceiling area above the living room window and remedial works are needed to prevent this water penetration and to ensure that the Property is water tight. It is likely that the source of this water ingress will only be identified following a full inspection of the roof area.

- There are no carpets in the hall or the shower room. It was unclear if the carpets were in the Property at the time the Tenancy Agreement was entered into but the Committee noted that Mr Bradley indicated his willingness to provide carpets. The Committee were of the view that the lack of carpets was not a breach of the Repairing Standard and consequently made no order in regard to the carpets.
- The right-hand side window in the living room is not in a reasonable state of repair and is not wind or water tight and requires to be repaired or replaced.
- The inlet and/or outlet pipes under the kitchen sink are leaking and are not in proper working order and repairs are required.
- The washing machine in the kitchen is owned by the tenants.
- The living room, kitchen and bedroom doors are not in a reasonable state of repair and required to be repaired or replaced. The internal entrance door to the Property is in a reasonable state of repair. The Yale lock is in proper working order.
- The wardrobe doors do not open or close properly. However this is because of the actions of the Tenants. The Committee made no order in regard to the wardrobe doors.
- The shower cabinet doors are ill-fitting doors and consequently water leaks onto the floor when the shower is being used. The shower cabinet doors are not in proper working order and require to be replaced with a more suitable means of keeping shower water within the cubicle. The timber at the base of the shower is decayed and not in a reasonable state of repair and requires to be replaced.
- The WC is cracked and is not in a reasonable set of repair and requires to be repaired or replaced and the adjacent wall finishes made good.
- The covers of some of the light fittings in the common stair are missing. However they are in working order. Some of the windows have cracks in the windowpanes and the sash cords on the uppermost window of the common stair are broken. However, that window can be opened. Given the age and character of the building, the windows and lights in the common stairway are in a reasonable state of appear and in proper working order.
- The rhone pipes appeared to be in a reasonable state of repair and in proper working order.
- The external vent pipe for the Property is in a reasonable state of repair.

- The bottom step at the entrance door to the common stairway is damaged and not in a reasonable state of repair. It requires to be repaired.
- There is some weathering of the external stonework of the Property but the stonework is in a reasonable state of repair.
- From the inspection it appeared that the timbers above the kitchen window were in a reasonable state of repair.
- The pipework beneath the basin in the bathroom was seen to be leaking. However since this was not included in the original application to the PRHP it is excluded from the determination of the Committee.

Right of Appeal

28. A Landlord(s) or Tenant aggrieved by the decision of a PRHP Committee may appeal to the Sheriff by summary application within 21 days of being notified of that decision.

Effect of section 63

29. 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. 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 **R Handley** Date 30 August 2013
 Chairperson