



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

PRHP Ref: PRHP/RP/16/0297

Re : Property at 28 Culvain Place, Hallglen, Falkirk FK1 2QF ("the Property")

Title No: STG21633 in the Land Register for Scotland

The Parties:-

MISS ANGELA McNAMEE, residing at 28 Culvain Place, Hallglen, Falkirk FK1 ("the Tenant")

MR GURMIT KAREER and MRS SEEMA KAREER, residing at 15 Ventnor Road, Leicester LE2 3RN ("the Landlords")

The Committee Members:-

GRAHAM HARDING (Chairperson) and **DAVID GODFREY** (Surveyor Member)

NOTICE TO MR GURMIT KAREER and MRS SEEMA KAREER ("the Landlords")

Whereas in terms of their Decision dated 25 November 2016, the Private Rented Housing Committee determined that the Landlords have failed to comply with the duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 ("The Act") and in particular that the Landlords have failed to ensure that:-

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

The Private Rented Housing Committee now requires the Landlords 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 Landlords:-

- (a) To repair or replace the front door so as to render it wind and water tight.
- (b) To repair the lock to the patio doors so that the doors are secure and that they are in a reasonable state of repair and in proper working order.
- (c) To fill and tape the new plasterboard ceilings in the living room, bathroom, landing and stairway and redecorate as required.
- (d) To create a hatch in the wall in Bedroom Two at service duct.
- (e) To install vents in each room to ensure adequate ventilation to prevent the build up of condensation and mould within the Property.

- (f) To complete the installation of the new kitchen, including replacing any loose/missing tiling.
- (g) To repair the fascia panel below the kitchen window and apply sealant above the kitchen door and kitchen window frame.
- (h) To repair or replace decorative flooring in the living room.
- (i) To replace hall and stair carpet.
- (j) To remove mould from all walls and ceilings and redecorate as necessary.
- (k) To repair rear fence to make rear garden secure and install new gate to provide access to the rear garden.
- (l) To instruct and produce to the Committee an Electrical Installation Condition Report by a suitably competent person registered with NICEIC, SELECT or NAPIT in respect of the Property dated after the date of this Notice and to carry out any recommendations in said Report to ensure that there are no outstanding Category 1 or Category 2 items outstanding.

The Private Rented Housing Committee order that the works specified in this Order must be carried out and completed within six weeks 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.

Please note that in terms of Section 28(1) of the Act, a Landlord who, without reasonable excuse, fails to comply with a RSEO commits an offence liable on summary conviction to a fine not exceeding level 3 on the standard scale. A Landlord (and that includes any Landlord's successor in title) also commits an offence if he or she enters into a tenancy or occupancy arrangement in relation to a house at any time during which a RSEO has effect in relation to the house. This is in terms of Section 28(5) of the Act.

IN WITNESS WHEREOF these presents typewritten on this and the preceding page are executed by GRAHAM HARDING, Solicitor, Chairperson of the Private Rented Housing Committee at PERTH on 25 November 2016, before this witness:-

K Cowie

Witness

G Harding

Chairperson

KARA MARINA COWIE Name in Full

17-21 GEORGE STREET Address

PERTH, PH1 5JH

LEGAL SECRETARY Occupation



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

prhp Ref: PRHP/RP/16/0297

Re : Property at 28 Culvain Place, Hallglen, Falkirk FK1 2QF being the Title Number STG21633 in the Land Register for Scotland ("the Property")

The Parties:-

MISS ANGELA McNAMEE, residing at 28 Culvain Place, Hallglen, Falkirk FK1 2QF ("the Tenant")

MR GURMIT KAREER and MRS SEEMA KAREER, residing at 15 Ventnor Road, Leicester LE2 3RN ("the Landlords")

Decision

The Committee, having made such enquiries as it saw fit for the purposes of determining whether the Landlords have complied with the duty imposed by Section 14(1)(b) in relation to the house concerned, and taking account of the evidence led by both the Landlords and the Tenant at the Hearing, determined that the Landlords have failed to comply with the duty imposed by Section 14(1)(b) of the Act.

Background

1. By application received on 12 September 2016, the Tenant applied to the Private Rented Housing Panel for a determination of whether the Landlords 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 she considered that the Landlords had failed to comply with their duty to ensure that the Property meets the Repairing Standard. She advised that the house is not wind and water tight and in all other respects reasonably fit for human habitation, that the structure and exterior of the house (including drains, gutters and external pipes) are not in a reasonable state of repair nor in proper working order and that any fixtures, fittings and appliances provided by the Landlords under the tenancy were not in a reasonable state of repair nor in proper working order.

In particular, the application stated:-

- (a) the house is not wind or water tight as every time it rained the water came in and fused all the lights. This resulted in the light bulbs blowing .

- (b) The patio and front doors are not secure and wind and rain gets in.
 - (c) The windows also rattle and leak.
 - (d) The water tank in the loft leaked and the stair carpet was soaked and unusable and had to be removed and was never replaced resulting in bare floorboards.
 - (e) The leak also caused the ceilings to fall in and when they were repaired, plasterboard was hammered onto the ceiling and left unfinished.
 - (f) The wooden floor in the lounge was not replaced after being lifted to put in pipes for radiators.
 - (g) There was a large hole in the middle bedroom wall that was never repaired.
 - (h) There was mould growing in most rooms.
 - (i) There were tiles falling off the walls in the bathroom and kitchen.
 - (j) The extractor fan in the bathroom was not working.
 - (k) The fence around the back garden had fallen down and had not been repaired resulting in the garden being used as a rubbish tip.
 - (l) Plugs and sockets were hanging off the wall and wires were exposed.
 - (m) The aerial socket was broken in the living room.
 - (n) The gutters and drains around the house were broken in parts and not fit for purpose.
 - (o) The kitchen cupboard doors were hanging off and the bases were rotten due to water damage caused by the boiler leaking.
 - (p) There is no insulation in the loft.
3. The Tenant advised the Landlords of the alleged defects by letter of notification dated 27 July 2016. That letter of notification did not include the alleged defects that the windows rattled and leaked nor that the extractor fan was not working nor that the aerial socket in the living room was broken nor that the gutters and drains were broken.
4. The President of the Private Rented Housing Panel having considered the application, referred the application under Section 22(1) of the Act to a Private Rented Housing Committee.

5. The Committee Members were Graham Harding, Chairperson and David Godfrey (Surveyor Member).
6. The Private Rented Housing Committee served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon both the Landlords and the Tenant dated 19 September 2016.
7. The Committee issued a Direction to the Landlords dated 26 October 2016 which required the Landlords to provide on or before the Inspection and Hearing scheduled for Thursday, 10 November 2016 an Electrical Installation Condition Report by a suitably competent person registered with NICEIC, SELECT or NAPIT in respect of the Property and dated after the date of the Direction.
8. By representations made to the PRHP offices dated 3 November 2016, the Landlords advised that the electrician instructed to carry out the Electrical Installation Condition Report had refused to carry it out due to the premises being in an extremely untidy and dirty state with excessive amounts of rubbish lying around obstructing access to electrical accessories. He had decided not to carry out the inspection until a clearance and cleaning of the Property had been carried out.
9. The Landlords sent written representations to PRHP dated 25 October 2016. These were in the following terms:-
 - (a) Our electrician visited the Property and replaced the fan in the bathroom. He checked the electrics over and said that everything was fine. The plasterboard has been there for about one year, that's when we got the ceiling replaced after the water tank pipe burst in the loft, causing damage. The plasterboard is dry to the bone and no water is leaking in through the roof or ceiling now.
 - Plasterer has been booked in to plaster the ceilings on Thursday, 27 October 2016. See Exhibit 1.
 - Also see Exhibit 2 – email from our electrician to confirm work and findings.
 - (b) Our double glazing repair man visited the Property to carry out repairs to the front door and patio door. He was so disgusted with the hygiene of the house, the smell, and untidiness that he refused to go back to do the repairs. See Exhibit 3.
 - This job is still pending but will be done as soon as we can find someone to do it.
 - (c) The Tenant has been living in this Property since September 2011 and, at the time, the house was in very good condition but Angela has not maintained it at all, she neglected it. The kitchen cupboard doors are all hanging off, they have been damaged.

- A new kitchen is being delivered to Angela on Monday, 31 October 2016 and will be fitted on Tuesday, 1 November 2016. See Exhibit 4.

(d) Jobs Outstanding

- Fix patio door and front door
- Check down pipes of the building
- Replace tiles in shower cubicle
- Fit back door once rubbish been cleared
- Fit carpet on staircase once ceilings been plastered and painted
- Check all window seals to make sure no potential leaks

(e) The issues we cannot agree with in the statement are as follows:-

- That she had no reliable heating system for three years. The boiler has been checked every year, the central heating system is only about three years old, and if there was an issue with it, surely she would of advised us or Falkirk Council. This is a lie.
- The garden has been kept in a disgusting state, the neighbours have been complaining to the Council about it then Environmental Health had to issue an Order for her to clear it up. We have got emails from Council to confirm this. The fact that she saying it is people been dumping rubbish is nonsense and house is apparently kept to the same state inside as it is outside. We replaced the fence as soon as we were advised it was broken but left an entrance so she could clear the garden up and then we could put a back door on it. This would of saved her from taking all the garden rubbish through the house. See Exhibits 5 and 5A.
- We should have been made aware of the issues straight away so they could be rectified. We were not told about the kitchen cupboards, not told about extractor not working.

(f) Other Issues

- Have tried to pass the management of this Property onto Let Direct so it can be managed more hands on but Angela refused to sign a tenancy.
- We further proposed that Let Direct could manage all the repairs hands on and once completed then she could sign a new Tenancy Agreement. However, when Diane from Let Direct made an appointment and went round, she was not in and didn't have the courtesy to cancel appointment or answer her call. Diane took photos of the Property. See Exhibits 6 and 6A.

- Another major problem managing this tenancy is getting tradesmen to go into the house. Many of them have complained about the state of it, like the double glazing man, and he refused to go back. So we are persevering to get these issues resolved.

(g) Final Point

We will endeavour to get the issues outstanding fixed within a reasonable amount of time and we think it would be very helpful if some kind of mediation between us was arranged to ensure that the right steps are being taken and all parties are working together to get the issues resolved.

10. The Committee, along with another Surveyor Member, Mrs Sara Hesp, as an observer, attended at the Property on 10 November 2016. It was cloudy but dry during the Inspection. The Property is an end terraced 3-storey house approximately 45 years old. The accommodation comprises, on the ground floor, kitchen, dining room (used as bedroom one), toilet and store. On the first floor, bedroom two and living room, and on the second floor, two further bedrooms and a bathroom. The Property was cluttered with many of the Tenant's and her family's possessions stored in bin bags and piled up in heaps throughout the Property. Bedroom one in particular was incapable of being used partly as a result of ongoing renovations to the kitchen. The Property is double glazed and has a gas fired central heating system. The Tenant's representative, Liz McLean, was present at the Inspection to provide support to the Tenant, who also attended. The Landlords were not present and they were not represented. The Committee inspected the alleged defects and found as follows:-

(a) Damage to Plasterwork

Repairs had been carried out to the ceiling of the living room, bathroom, stairway and landing but the new plasterboard remained unfinished and had not been taped nor painted.

(b) Damage to Living Room Floor

The decorative flooring over the living room floor had been partially removed to install central heating pipes and had not been replaced, leaving bare floor boards.

(c) Hole in Bedroom (Two) Wall

There was an opening in the wall to a service duct which was uncovered.

(d) Mould in Every Room on Top Floor

There was condensation/mould at Bedroom (Three) window and mould on Bedroom (Three) ceiling. There was condensation/mould at Bedroom (Four) window. There was mould above the shower in the bathroom and also in the corner above the bathroom window.

(e) Kitchen Fittings Damaged

The kitchen was in the process of being replaced but had not been completed at the time of the Inspection.

(f) Tiles Falling Off Wall due to Damp in Kitchen and Bathroom

There were tiles falling off the kitchen wall. At the time of the Inspection, the bathroom tiling had been repaired.

(g) Back Door is Rotten

There was damage to the fascia below the kitchen window adjacent to the back door and sealant was missing from around the door frame and window frame.

(h) Fence Not Fully Fixed

There was a missing section of fence along the eastern boundary allowing access into the rear garden and there was a considerable amount of debris lying in the back garden. There was no gate at the western entrance to the back garden.

(i) Patio Door Does Not Lock and Wind/Rain Gets In

There was an inadequate bolt arrangement at the patio door leaving the door loose and not wind and water tight.

(j) Dampness in Hall and Toilet

There was mould growing in the ground floor cupboard, toilet, and in the entrance hall. The moisture readings were within normal parameters.

(k) Stair Carpet Damaged

There was obvious evidence of damage to the remains of the stair carpet that was in situ showing damp staining. The upper portion of the stair had no carpet as this had been removed and not replaced.

(l) Front Door Not Secure

The front door was poorly fitting with the glazed panel being loose. It was not wind and water tight.

(m) No Insulation in Attic

There was no insulation visible in the attic.

(n) Electric Wiring System Suspect

There was a dated consumer unit/fuse box in the downstairs cupboard. A switch in Bedroom Four had been removed from the wall to allow piping to be installed leaving the switch unit loose from the wall with wires showing. The light switch on the upper landing was loose.

(o) Extractor Fan in Bathroom No Longer Works

The old extractor fan was left in situ but a new extractor fan had been fitted in the bathroom.

(p) Aerial Socket Missing in Living Room

The aerial socket was missing.

(q) Gutters and Drains around House Broken

It was dry during the Inspection and it was not possible to ascertain whether the gutters and drains were broken. It appeared that the downpipes were newer than the gutters.

11. Following the Inspection of the Property the Private Rented Housing Committee held a Hearing at Stirling and heard from the Tenant. The Landlords were not present.

12. The Tenant submitted as follows:-

According to the Tenant, she was suffering from anxiety and depression that was linked to the conditions under which she had been living. She occupied the house with, until recently, her 5 children but her son was now 16 and had left the Property and she was now living there with her 4 daughters. She said that due to the unhealthy conditions in the Property, herself and her children were always ill. She said that because of the condition of the house, everything had got on top of her and that made it more difficult for her to cope with keeping the Property clean and tidy. There was no incentive for her to do so.

The Tenant said she had moved into the Property in 2011 and at that time she had not seen any mould. The Property had been occupied prior to her moving in and it was shortly after that she started to notice problems with damp and condensation. She explained that the Property had been in the same state of decoration as it currently was in that wallpaper was missing from most of the walls. She said she had painted the living room since moving in.

The Tenant said that the current heating system had been installed about 2014 and there had been no need for her to move out at that time. The mould started to appear in about 2012. She spoke of there being a lot of condensation and damp throughout the period of her occupation of the Property. She said that since the locks were changed on the windows in July 2015, it had been easier to open windows and the amount of condensation had decreased.

The Tenant confirmed that the Landlords had sent workers in over the past week and that a new extractor fan had been installed in the bathroom and the tiles in the bathroom replaced. The Tenant said that someone else had been sent out to check the electrical system but had been unable to do so because of the sockets being covered by the contents of bags and other items throughout the house. The Tenant said that due to the faulty electrics,

there were about 25-30 light bulbs per month blowing and sometimes shattering and she did not think that the electrics were safe.

The Tenant explained that because there was no storage for clothes, everything that she had was in bags or was piled up within the house.

The Tenant explained that she had been served Notice to Quit in October 2015 and had subsequently been taken to Court because the Landlords were alleging that there was arrears of rent but the action had been dropped. Due to her Housing Benefit not covering the full rent, she was unable to obtain alternative accommodation through the Council as arrears built up.

The Tenant stated that she did not think the Landlords had ever seen the Property. She believed it had been bought by them at auction and that there had been no periodic inspections organised by the Landlords. She did have a contact number for the Landlords and could ask them to do repairs.

The Tenant confirmed that the Landlords had arranged for a new kitchen to be installed and that this work was ongoing. She thought that the work would be completed the following week.

The Tenant explained that because the Landlords had not repaired the fence at the rear of the Property, people had been using it as a rubbish tip. She accepted that some of the bags at the rear were hers but that the majority of items had been placed by other people. The Council had cleared the rear garden in August this year and the items that were currently there had arrived since August.

The Tenant said that she knew the Landlords were aware of all the issues that had been raised. She felt that the Landlords did not use reliable companies to do the work and that this added to the problems.

Summary of the Issues

13. The issues to be determined are:-

- (a) The house is not wind and water tight 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.
- (c) Whether any fixtures, fittings and appliances provided by the Landlords under the tenancy are in a reasonable state of repair and in proper working order.

Findings of Fact

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

(a) The Property is not wind and water tight and in all other respects reasonably fit for human habitation [Section 13(1)(a) of the Housing (Scotland) Act 2006]

- There was movement to the front door and to the glass panel in the front door that rendered it not wind and water tight.
- The existing bolt arrangement locking the patio door was insufficient to render the patio door wind and water tight.
- There was sealant missing around the kitchen door and kitchen window and damage to the fascia panel below the kitchen window rendering the Property not wind and water tight.
- The decorative flooring in the living room had not been repaired following the installation of a new heating system.
- The ceilings in the house that had been repaired following a leaking water tank had not been finished to an acceptable standard.
- The hall and stair carpets had been damaged by water ingress and required to be replaced.
- There was a hole in the wall in Bedroom Two.
- There was no evidence of rising or penetrating damp.
- There was no insulation in the loft, which was not in itself a failure but was contributing to the condensation problems in the house.
- There was inadequate ventilation in all the rooms causing mould and condensation.
- The tiles in the bathroom had been repaired.
- A new extractor fan had been installed in the bathroom.
- The kitchen units were in the process of being replaced and could not be used.

(b) The structure and exterior of the Property (including drains, gutters and external pipes) are not in a reasonable state of repair and proper working order [Section 13(1)(b) of the Housing (Scotland) Act 2006].

- There was mould growing in most of the rooms of the house that resulted from a lack of adequate ventilation. There were no vents in the windows to allow ventilation of the house.

- The fence around the rear garden of the house had not been repaired and that this resulted in persons other than the Tenant dumping rubbish in the rear garden. There was no gate access to the rear garden.
- (c) Any fixtures, fittings and appliances provided by the Landlords under the tenancy are in a reasonable state of repair and in proper working order.
- The kitchen units were in the course of being replaced but that the work was not completed.
 - There were loose tiles on the kitchen wall.
 - It would have been possible for the Landlords' electrician to have completed an Electrical Installation Condition Report notwithstanding the Tenant's belongings stored throughout the house.

Reasons for the Decision

15. Whilst it was noted that the Landlords had instructed certain repairs to the Property, including installing a new kitchen and extractor fan in the bathroom, and had repaired the tiling in the bathroom and whilst the Committee also accepted that there was a lot of the Tenant's belonging lying about the Property that would make it more difficult for tradesmen to carry out repairs, this was not sufficient reason for the necessary works that have been acknowledged by the Landlords not being completed. The Committee accepted that the majority of the detritus in the back garden had resulted from third parties dumping rubbish there rather than coming from the Tenant herself. Given that the Landlords had acknowledged that further works required to be done to the Property but had not carried them out prior to the Inspection and Hearing, the works remained outstanding.

Decision

16. The Committee accordingly determined that the Landlords had failed to comply with the duty imposed by Section 14(1)(b) of the Act.
17. The Committee proceeded to make a Repairing Standard Enforcement Order as required by Section 24(1) of the Act.
18. The decision of the Committee was unanimous.
19. Whilst the Committee were unable to make an Order with respect to the installation of smoke alarms and heat detectors as the condition of the smoke alarm and heat detectors had not been notified to the Landlords, they would recommend that a hard wired inter-linked smoke alarm system and heat sensors should be installed to comply with current Regulations.

Right of Appeal

20. **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

21. 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: **G Harding**
.....
Chairperson

Date: 25 November 2016

PRHP REF: PRHP/RP/16/0297

28 CULVAIN PLACE, HALLGLEN, FALKIRK, FK1 2QF

Front elevation



General view

1. Damage to plasterwork



Damage to Living Room ceiling



Damage to Bathroom ceiling



Damage to Stairway ceiling



Damage to Landing ceiling

2. Living Room floor requires repair



Damage to decorative flooring

3. Hole in Bedroom (2) wall



Opening in wall to service duct which is uncovered

4. Mould in every room on top floor



Condensation/mould at Bedroom (3) window



Mould on Bedroom (3) ceiling



Condensation/mould at Bedroom (4) window



Condensation/mould above shower in Bathroom



Condensation/mould on Bathroom ceiling

5. Kitchen fittings damaged



Kitchen presently being refitted

6. Tiles are falling off wall due to damp in Kitchen and Bathroom



Kitchen tiling



Bathroom tiling (recently repaired)

7. Back door is rotten



Damaged fascia below kitchen window/adjacent to back door.

8. Fence not fully fixed



Missing section of fence

9. Patio door does not lock and wind/rain gets in



Inadequate lock

10. Dampness in Hall/Toilet



Mould in ground floor cupboard



Mould in Entrance Hall

11. Stair carpet damaged



Damp stained hall/stair carpet

12. Front door not secure



Front door poorly fitting with loose glazing

13. No insulation in attic



General view of attic

14. Electrical wiring system suspect



Dated consumer unit/fuse box



Loose switch

17. Extractor fan in Bathroom no longer works



New extractor fan fitted in Bathroom

16. Aerial socket missing in Living Room



Missing socket

17. Gutters and drains around the house are broken



General view of rear rhones/downpipes



General view of front rhones/downpipes

David Godfrey

10th November 2016