



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

PRHP Ref: PRHP/RP/16/0240

Re : Property at 47 Juniper Avenue, Edinburgh, EH14 5EE being the subjects registered in the Land Register of Scotland under Title Number: **MID39694 ("the Property")**

The Parties:-

Ms Yanqing Lai residing at 47 Juniper Avenue, Edinburgh, EH14 5EE (**"the Tenant"**)

Ms Rehana Hafeez residing at 67 East Craig Wynd, Edinburgh, EH12 8HJ represented by their agent Ashley Puren c/o Pure Property Management, 141 Gilmore Place, Edinburgh, EH3 9PW (**"the Landlord"**)

Graham Harding (Chairperson) and David Lawrie (Surveyor Member) (**"the Committee Members"**)

NOTICE TO THE SAID MS REHANA HAFEEZ ("the Landlord")

Whereas in terms of their decision dated 11 February 2016 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 ("The Act") and in particular that the landlord has failed to ensure that the property is:-

- (a) 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.

the Private Rented Housing Committee now requires the Landlord to carry out such work as is necessary for the purposes of ensuring that the Property 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 to:-

- (a) Obtain a Damp and Timber Specialist Report from a reputable firm of contractors and carry out such works as may be recommended in said report.

The Private Rented Housing Committee order that the works specified in this Order must be carried out and completed by 31 December 2016.

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(s) are executed by Graham Harding, Solicitor, chairperson of the Private Rented Housing Committee at Perth on14th November 2016..... before this witness: /

K Conie Witness

G Harding

Name in full

17-21 GEORGE ST Address

PERTH

PHI 554

LEGAL SECRETARY Occupation



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

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The Parties:-

Ms Yanqing Lai residing at 47 Juniper Avenue, Edinburgh, EH14 5EE ("**the Tenant**")

Ms Rehana Hafeez residing at 67 East Craig Wynd, Edinburgh, EH12 8HJ represented by their agent Ashley Puren c/o Pure Property Management, 141 Gilmore Place, Edinburgh, EH3 9PW ("**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 Landlord's representative 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 08 July 2016 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 her duty to ensure that the house meets the repairing standard and in particular that the Landlord had failed to ensure that:-
 - (a) that the house is wind and water tight and in all other respects reasonably fit for human habitation;
 - (b) that 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. In particular the application stated:- "the Landlady has been aware of the damp problem in the bedroom before I moved in (02/02/2016). She promised that it would be fixed by early spring. Since I moved in she has never bothered to fix it. The dampness has spread through the whole flat. As admitted by her representative letting agent she is now only willing to fix the problem outside but not inside of the flat. The dampness is so bad that I have not used the bedroom properly since I moved in." The Tenant in her application stated that there was serious damp inside the

bedroom, the wall and plaster have to be taken down. There was serious damp, mould and fungi problem in the bathroom and kitchen.

3. By email dated 27 May 2016 the Tenant intimated the alleged defects to the Landlord's representative.
4. By Minute dated 09 August 2016 the Convenor of the Private Rented Housing Panel referred the application to a Private Rented Housing Committee.
5. The Tenant's tenancy ended on 31 July 2016. By Minute of Continuation dated 09 August 2016 given the nature of the complaints within the application the Convenor considered that the application should be determined on health and safety and public interest grounds due to the nature of the alleged repairs required notwithstanding that the tenancy had come to an end.
6. By letter dated 03 October 2016 the Landlord was given Notice of Referral, inspection and Hearing under and in terms of Schedule 2, Paragraph 1 of the Act.
7. The Landlord's representative issued written representations by letter to the Private Rented Housing Panel dated 04 October 2016. The Landlord's representative in their written representations stated that they believed that the issues were a combination of the failing damp course, pointing between bricks at ground level which had failed and excessive condensation within the property from cooking, insufficient ventilation and heating. The Landlord's representative advised that they had taken steps to advise the Tenant on how to control condensation; advised the Landlord to have an extractor hood fitted above the cooker; assessed the extent of condensation; and offered the Tenant alternative accommodation as the property required to be emptied for remedial works to be completed. The Landlord's representative said that repairs to the external wall surfaces had been undertaken and as had repairs to the internal fabric of the property. They stated that there was now no further water ingress and that the property had been dried out and redecoration was currently underway. According to the Landlord's representative there was no evidence of damp or condensation at the outset of the tenancy.
8. The Committee Members were Graham Harding (Chair Person) and David Lawrie (Surveyor Member).
9. The Private Rented Housing Committee inspected the Property on the morning of 01 November 2016. The Landlord's representative, Ashley Puren, was present during the inspection. At the inspection it was apparent that the property had been completely redecorated and there were no signs of mould or fungus growth. There were however high damp meter readings recorded along the gable wall from the front to the back of the property and further high damp readings in the kitchen and at the rear door. There was evidence that a chemical damp proof course had been installed to the left gable and rear elevation but not to the front or right gable. There were also intermittent high damp readings in other areas of the house. The Committee noted during their inspection that the carbon monoxide detector in the kitchen was located above the gas boiler. The Committee also noted that there was no heat detector in the kitchen and no smoke detection in the living room but there was a smoke detector in the hallway but there was no means of testing it. The Committee also noticed that the gas fire in the lounge area had been condemned and was not useable and had a warning sticker attached to it.

10. Following the inspection of the property the Private Rented Housing Committee held a Hearing at Edinburgh and heard from the Landlord's representative, Ashley Puren.
11. The Landlord's representative confirmed the Landlord's position was as stated in the written representations. He explained that the work carried out to the exterior of the property including digging out a trench around the front and side elevations and cutting back existing harling, raking out defective mortar and repointing and applying a bitumen coat and backfilling the trenches all as detailed on GLS Cormac Roofing and Building Services invoice. The Landlord's representative confirmed that the Landlord had not obtained a report from a Timber and Damp Specialist firm but believed that the work carried out had a guarantee of ten years. The Landlord's representative acknowledged that the carbon monoxide detector had been located incorrectly and would move it on to the kitchen wall. He acknowledged that there was no heat detector in the kitchen nor a smoke detector in the living area. He acknowledged that these would require to be fitted and linked to a smoke detector in the hall prior to the property being tenanted again. The Landlord's representative stated that the gas fire in the living room had the gas supply capped and could not be used. The Landlord's representative acknowledged that there were high damp readings found throughout the property. He stated that he had been running dehumidifiers in the property up until the morning of the inspection in order to dry out the property. He acknowledged that during the inspection there had been evidence of movement in the floor of the bathroom which was an indication that there may be rot present. He acknowledged that there had been a previous chemical damp proof course applied to the front and rear walls of the property but that there was no sign of a chemical damp proof course on the gable walls. The Landlord's representative maintained that when the property had first been tenanted by the Tenant there was no sign of any damp or mould and that some of the problem had been caused by the Tenant not properly ventilating the property and steaming a lot of foods in the kitchen.

Summary of the issues

12. The issues to be determined are:-
- (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; Whether the condition of the damp in the bedroom and kitchen and other parts of the property result in the property not being wind and water tight and in all other respects reasonably fit for human habitation.
 - (b) Whether 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 the damp and previous mould and fungal growth mean that the structure and exterior of the house is in a reasonable state of repair and in proper working order.

Findings of fact

13. The Committee finds the following facts to be established:-
- The Property is not wind and water tight and in all other respects reasonably fit for human habitation. That although the property was now free from mould and fungal growth having been recently redecorated the high damp meter readings throughout the property indicated that it was likely that the damp proof course had failed or that there was no damp proof course and that therefore the problems with mould and

fungal growth would occur within a short period of time. There was also indication that there was a possibility of rot in the bathroom given the movement in the floor in that area. The previous Tenant's lack of ventilation of the property may have exacerbated the problem but the underlying problem was the lack of an effective damp proof course.

- There was no heat detector fitted in the kitchen. There was no smoke detector fitted in the living room. The gas fire in the living room had been condemned and was no longer operable. There was a current gas safety certificate available.

Reasons for the decision

14. The committee was satisfied from a high moisture readings and the lack of a chemical damp proof course and the movement in the floor in the bathroom that the property did not meet the repairing standard.

Decision

15. The Committee accordingly determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.
16. The Committee proceeded to make a Repairing Standard Enforcement Order as required by Section 24(1).
17. The decision of the Committee was unanimous.
18. Whilst the Committee were unable to make an Order with respect to the heat and smoke alarms as the condition of the alarms had not been notified to the Landlord they recommend that hardwired interlinked smoke alarm system and heat sensors should be installed to comply with the regulations.

Right of Appeal

19. 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

20. 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 Harding

Signed
Chairperson

Date... 14th November 2016

PRHP/RP/16/0240
47 JUNIPER AVENUE EDINBURGH

PHOTOGRAPHIC SCHEDULE



Side and front elevations - showing works carried out by builder



Side elevation - showing works carried out by builder



Living Room ceiling - no smoke detector



Kitchen ceiling - no smoke detector

**DAVID LAWRIE
SURVEYOR COMMITTEE MEMBER
3 NOVEMBER 2016**