



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

prhp Ref: PRHP/RP/15/0023

Re : Property at 24 Macindoe Crescent Kirkcaldy Fife FY1 2JG ("the Property")

Title No: FFE55481

The Parties:-

Robert Munro, 4 Culzean Crescent Kirkcaldy (landlord)

Pauline Guthrie, 24 Macindoe Crescent Kirkcaldy (tenant)

NOTICE TO Robert Munro ("the Landlord")

Whereas in terms of their decision dated 11th May 2015 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

- a. Any fixtures, fittings and appliances provided by the landlord under the tenancy 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 repair or replace the doors and shelves of the kitchen units to ensure they are in a reasonable state of repair and in proper working order.
- b. To repair the leak in the pipework under the kitchen sink
- c. To repair the cooker hood to ensure it is in a reasonable state of repair and proper working order.
- d. To provide a Certificate of Electrical Safety
- e. To rehang the door between the livingroom and the hallway
- f. To replace or relay the flooring in the hallway to ensure the flooring is in a reasonable state of repair.

The Private Rented Housing Committee order that the works specified in this Order must be carried out and completed within the period of 12 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.

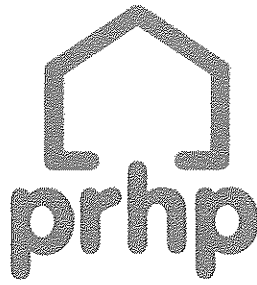
In witness whereof these presents are subscribed by me, Anne McCamley, Chairman of the Private Rented Housing Committee at Edinburgh on the Nineteenth day of May Two Thousand and Fifteen in the presence of Murdoch McCamley Chartered Accountant of 5b Wester Coates Terrace Edinburgh.

M. MCCAMLEY

A. MCCAMLEY

(Witness)

Chairman Private Rented
Housing Committee



**Determination by the Private Rented Housing
Committee**

**Housing (Scotland)
Act 2006**

Section 24(1)

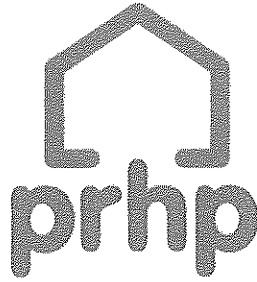
**Property at 24 Macindoe Crescent, Kirkcaldy
KY1 2JG**

**Tenant: Ms. Pauline Guthrie, 24 Macindoe
Crescent, Kirkcaldy**

**Landlord: Mr. Robert Munro, 4 Culzean
Crescent, Kirkcaldy**

Title Number: FFE55481

Reference: PRHP/RP/15/0023



The Decision:

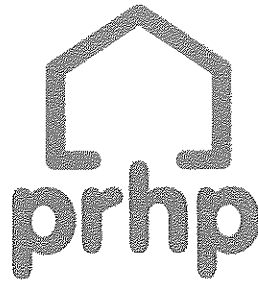
The Committee, having made such enquiry as it sees fit, having considered the whole oral and written evidence and applying the balance of probability and its own expertise, determines that the landlord has failed to ensure the property at 24 Macindoe Crescent, Kirkcaldy meets the repairing standard and accordingly the landlord has failed to comply with the duty imposed by section 14(1)(b) of the Housing (Scotland) Act 2006.

Background:

By application dated 22/1/14 the tenant applied to the Private Rented Housing Panel for a determination as to whether the landlord had failed to comply with the duties imposed by section 14(1)(b) of the Act.

The Private Rented Housing Panel served a Notice of Referral dated 16/3/15 under and in terms of schedule 2 paragraph 1 of the Act on both the landlord and tenant.

A Private Rented Housing Committee comprising Mrs. A. McCamley (Chairman), Ms. S. Napier (Surveyor), and Ms. A. MacDonald (General



Member) inspected the property on the morning of 11/5/15 accompanied by the tenant. The landlord had been invited to attend the inspection but did not do so.

At the outset of the inspection the tenant confirmed the landlord had carried out some repair work and the matters now outstanding are:

In the bathroom; there is a gap at the back of the bath, the pedestal supporting the wash basin is 'rocky' and there is no shower curtain.

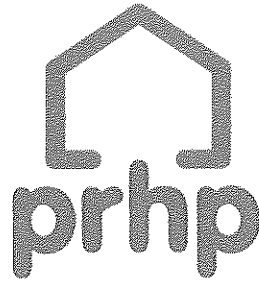
In the kitchen; the unit doors are hanging off and some of the doors are without handles, the cooker hood does not function, there is a slow drip coming from the U bend under the sink.

In the livingroom; the door has come off its hinges.

In the bedroom; the window sill is unstable

In the hall; the laminate flooring is 'coming away' from the floorboards. It is 'popping up'.

In the garden; there is rubbish which has not been uplifted.

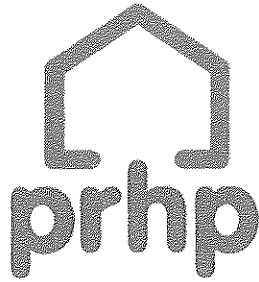


The tenant advised that the following matters, which had formed part of the original application, have now been addressed:

An infestation of ants which had been a problem last summer is not a current problem, a window catch in the livingroom has been sorted, the bathroom taps are fine, the shower works, the bathroom door closes, the bath has been sealed, the door at the top of the stairs has a working snib. The central heating system, including the boiler, has been checked and is in proper working order (a Gas Safety Certificate has been seen).

Following on from the inspection the Committee held a hearing at a Community Centre in Kirkcaldy. The tenant did not wish to attend the hearing as her support worker was not available. The tenant made her comments during the course of the inspection. The landlord's daughter, Debbie Munro, and a colleague, Kelly Ann McDade, attended the hearing on behalf of the landlord. Miss Munro explained she and Ms. McDade worked in her father's property business (Munro Properties) and the business had about 52 properties in the rental market.

Miss Munro assured us the landlord was willing to carry out all repairs however access has always been an issue. The tenant is often unable to facilitate access for tradesmen and can also forget they are coming. Some matters have been attended to already but others remain



outstanding. The landlord intends to 'do the kitchen' in June and to relay flooring in the hall thereafter. A plumber has inspected the pipework under the sink and the landlord had understood the leak had been fixed.

The landlord believes some of the damage to the kitchen fittings may be as a result of tenant misuse. Work (at a cost in excess of £3000) was carried out to the kitchen (and other parts of the property) in March 2014 but the units have deteriorated badly since then. The landlord finds it hard to accept the damage is as a result of normal wear and tear. Further, the landlord considers it likely that the livingroom door collapsed as a result of someone swinging on it. The landlord was not able to offer anything other than an opinion on this issue.

Findings in Fact

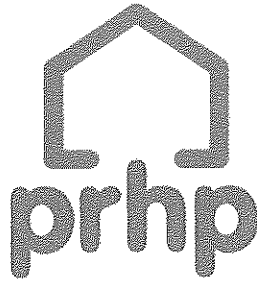
Having inspected the property and taken account of the oral and written submissions and thereafter being guided by the Committee's surveyor member the committee finds the following to be established:-

- a. In the bathroom – the gap behind the bath is of no relevance to the repairing standard. The bath is capable of use and is in a reasonable state of repair. The washbasin is securely fixed to the wall. The pedestal is of cosmetic value only and is in a reasonable state of repair. The shower curtain is a de minimis matter, however



we understand the landlord proposes to reinstate a shower curtain for the tenant and we have no reason to doubt that he will do so. In short we are satisfied the landlord has complied with the repairing standard in the bathroom.

- b. In the kitchen - the kitchen units are not in a reasonable state of repair or in proper working order. Nor is the cooker hood which does not work. The unit doors are hanging off their hinges and some do not have handles. Some shelving within the units is unstable or broken. There is a slow drip from the U bend under the sink. Accordingly we find the landlord is in breach of the repairing standard at section 13 (1)(d).
- c. In the livingroom – there is now no door between the livingroom and hall. A door was in place at the commencement of the tenancy. We have seen photos of the door hanging off its hinges but understand it has been removed, probably in the interests of safety. Accordingly the door, which is a fixture in the property, is not in a reasonable state of repair or in proper working order and the landlord is in breach of the repairing standard at section 13 (1)(d).
- d. In the bedroom – the window sill is unremarkable. It is part of the structure of the house and we find it is in a reasonable state of



repair, it supports the window and is not exhibiting any signs of dampness underneath or around it. There is no breach of the repairing standard.

- e. In the hallway – the laminate flooring is not securely fixed to the floor. It is not in a reasonable state of repair and the landlord is in breach of the repairing standard at section 13(1)(d).

In the garden – there is a pile of rubbish neatly boxed in the garden. The rubbish was put into the garden by the tenant. This is not an issue which falls into the repairing standard.

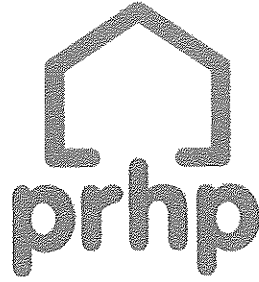
Reasons for the Decision:

In considering the repairing standard the committee carried out an internal and external inspection of the property and in particular closely examined the particular defects highlighted by the tenant during the inspection. We did not examine those defects which the tenant confirmed had been remedied. We also considered the representation made by parties.



It is obvious from visual inspection of the property that the kitchen units, laminate flooring and livingroom door are not in a reasonable state of repair or in proper working order. This means the landlord is in breach of the repairing standard and has failed to comply with the duties imposed by section 14(1)(b) of the Act **unless** it can be shown that such work is necessary as a result of a failure on the part of the tenant to use the house in a proper manner (see section 16(1)(b)). We considered the suggestion from Miss Munro of the possibility the livingroom door had been 'swung' off its hinges and the kitchen units opened and closed too vigorously. We noted the invoice/bill produced for work carried out at the property in March 2014 was skeletal in detail and felt we could not imply anything as regards the extent of work carried out in the kitchen from that bill. From photos produced by the tenant, the livingroom door appears to have been (at least) insecure since the commencement of the tenancy. Further, the tenant voluntarily showed us damage caused to a large glass pane in the outside door and explained it had been caused by her son. She did not shirk from this explanation. On balance we believe the tenant has used the house in a proper manner and has accepted blame when appropriate. The landlord may wish to take photographs of the property once everything has been repaired to ensure there is a visual record for comparison purposes in the future.

We note there is no electrical safety certificate available. Having found the electric cooker hood not to be in proper working order we believe it



would be appropriate for a full electrical safety certificate to be obtained once that work is completed.

The Committee accepts there have been problems with trades access to the property and encourages the tenant to facilitate such access going forward, to ensure the repair work is carried out within the timescale allowed. The Committee was very encouraged by the landlord's assurance that all work the committee required would be carried out.

The Committee makes a Repairing Standard Enforcement Order as required by section 24(1) of the Act.

A landlord or tenant aggrieved by this decision may apply to the sheriff by summary application within 21 days of being notified of the 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 order will be treated as having effect from the day on which the appeal is abandoned or so determined.

A. MCCAMLEY

*Chairman Private Rented Housing Committee
11th May 2015*

