



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

Reference number: PRHP/RP/15/0265

Re: Property at Flat G/1, 329 Bogmoor Road, Glasgow, G51 4SJ, being part of the subjects registered in the Land Register of Scotland under Title Number GLA178445 ("the Property")

The Parties:

Mr Harry Darby and Miss Linda Ismail, residing together at Flat G/1, 329 Bogmoor Road, Glasgow, G51 4SJ ("the Tenants")

Ian Lightbody and Louise Lightbody, Spouses, residing at 30 Polbae Crescent, Eaglesham, Glasgow, G76 0LR, as Partners of and Trustees for the firm of Gael Properties, having a place of business at 20 Polbae Crescent, Eaglesham, Glasgow G76 0LR ("the Landlord")

NOTICE TO Ian Lightbody and Louise Lightbody, Spouses, residing at 30 Polbae Crescent, Eaglesham, Glasgow, G76 0LR, as Partners of and Trustees for the firm of Gael Properties, having a place of business at 20 Polbae Crescent, Eaglesham, Glasgow G76 0LR, (**"the Landlord"**)

Whereas in terms of their decision dated 17 March 2016, the Private Rented Housing Committee ("the 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;
- (b) The property has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire; and
- (c) The property has satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health.

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 to:-

- (a) Provide and install smoke detection and alarm equipment in accordance with the British Standard on the design of fire detection installations for dwellings (BS5839 Part 6) in conjunction with the Scottish Government's Technical Handbook 2013 Domestic under Section 2 -Fire, Sub-section 2.11 Communication;
- (b) Supply and fit Carbon Monoxide detector compliant with the Scottish Government Statutory Guidance for the provision of carbon monoxide alarms in private rented housing;
- (c) Carry out such works as are necessary to repair the knobs on the oven/grill and to ensure the oven/grill is in proper working order. Where repair is not possible, to replace the oven/grill with an oven/grill of similar model and which is in proper working order;
- (d) Carry out such works as are necessary to eradicate the leak at the washing machine and leave in proper working order; and
- (e) Carry out such works as are necessary to ensure that the bath waste drains correctly and is in proper working order;

The Private Rented Housing Committee order that the works specified in this Order must be carried out and completed within the period of 4 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 type written on this #page only #and the preceding page(#s) are executed by Andrew Cowan, Chairperson of the Private Rented Housing Committee at Glasgow on # before this witness:-


A. COWAN

Signed
Andrew Cowan, Chairperson

Date 17 March 2016

L. MCMANUS

.....Witness

Laura McManus, Secretary, 7 West George Street, Glasgow, G2 1BA



Determination by Private Rented Housing Committee

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

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Re: Property at Flat G/1, 329 Bogmoor Road, Glasgow, G51 4SJ, being part of the subjects registered in the Land Register of Scotland under Title Number GLA178445 ("the Property")

The Parties:

Mr Harry Darby and Mrs Linda Ismail, residing together at Flat G/1, 329 Bogmoor Road, Glasgow, G51 4SJ ("the Tenants")

Ian Lightbody and Louise Lightbody, Spouses, residing at 30 Polbae Crescent, Eaglesham, Glasgow, G76 0LR, as Partners of and Trustees for the firm of Gael Properties, having a place of business at 20 Polbae Crescent, Eaglesham, Glasgow G76 0LR ("the Landlord")

Decision

The Private Rented Housing Committee ("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) of the Housing (Scotland) Act 2006 ("the Act") in relation to the property concerned and, taking account of the evidence led by both the Landlord and the Tenants in writing and at the hearing, determined that the Landlord has failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

The Committee consisted of:-

Mr Andrew Cowan – Chairperson
Mr Andrew Taylor – Surveyor Member

Background

1. By application received by the Private Rented Housing Panel ("the Panel") on 30th September 2015 the Tenants applied to the 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.

2. The Tenants stated within their application details of how they considered the Landlord had failed to meet the repairing standard, and gave details of the nature of the work which the Tenants consider requires to be done by the Landlord to ensure that the property meets the repairing standard. In terms of a letter received by the Landlord on 16 December 2015, the Tenants had intimated to the Landlord a list of defects which they considered the Landlord required to attend to in order to bring the property up to the repairing standard. A summary of the alleged issues brought forward by the Tenants are:-

- (a) the property suffers from severe dampness in the main bedroom, the living room and the bathroom of the property;
- (b) the kitchen floor is in a poor state of repair;
- (c) there is a hole under the kitchen sink as a consequence of which there are severe drafts which affect the property;
- (d) the property suffers from subsidence and there is cracking on the walls in the property due to that subsidence;
- (e) the property only has one smoke alarm and the Tenants had to provide their own carbon monoxide detector;
- (f) the oven/grill situated in the kitchen in the property is not fully operational as there is no knob to control the settings for the oven and grill;
- (g) the washing machine within the property leaks on to the floor; and

- (h) the bath within the property does not drain away quickly and the drain appears to be blocked.
3. The Committee served a Notice of Referral dated 20 January 2016 upon both the Landlord and the Tenants. Both the Landlord and the Tenants were advised that the Committee intended to inspect the property on 14 March 2016. The parties were further advised that a hearing would be held by the Committee in relation to the application on 14 March 2016, after the Committee had inspected the property.
 4. The Committee proceeded with the inspection and the hearing on 14 March 2016. The hearing and inspection were attended by both the Tenants and Mr Ian Lightbody as one of the Partners of the firm who are the Landlords of the property.

The Inspection

5. Photographs were taken during the inspection by the Committee. Copies of the photographs taken by the Committee are attached as a schedule to this report.
6. At the inspection, the Committee noted the following points:-
 - (a) the Committee inspected each of the rooms which the Tenants complained were affected by dampness. The Committee used a hand held moisture conductivity meter and noted that there were low readings of moisture at various points within each of the rooms concerned. The Committee further noted that there was slight black spotting/mould on some of the walls surfaces within the rooms concerned;
 - (b) the kitchen floor within the property showed evidence of wear and tear;

- (c) the fitted unit situated beneath the kitchen sink prevented the Committee from examining below that kitchen unit, but there was no immediate evidence from an internal inspection of any significant gap or hole situated underneath the kitchen sink. The Committee inspected the external kitchen wall from outside the property and could find no evidence of any disrepair or hole in the wall from an external perspective;
- (d) the Committee noted some minor cracking to plasterwork in the property, but there was no evidence of any material subsidence within the property;
- (e) the Committee noted that there was one hardwired smoke detector situated in the hallway of the property. There was also a battery operated smoke detector also situated in the hallway. There was no carbon monoxide detector in the property at the time of the Committee's inspection. There was no heat detector situated in the kitchen of the property;
- (f) the Committee noted that the control knob for the oven/grill situated in the kitchen of the property was missing and that the controls of the oven/grill were therefore inoperable;
- (g) the Committee noted that there was some evidence of water situated below the washing machine in the property;
- (h) the Committee noted that the bath takes considerable time to drain.

The Hearing and findings in fact

7. The Committee heard evidence from the Tenants and from the Landlord's representative. The Committee went through each of the Tenant's complaints and reported on their own observations following the inspection earlier in the day.

8. The Committee advised the Tenants of their observations from their inspection that there was no evidence of penetrating dampness in the property. The Committee had found low moisture readings within certain parts of the property and had noted some black mould/spotting on certain of the wall surfaces in each of the bedroom, living room and bathroom of the property and on the windowsills of each of those rooms. The Committee further noted the terms of a report which the Landlord had provided from Advance Preservations Specialists Limited who had inspected the property around September 2014 and who had reported that the existing damp proof course within the property was fully effective and which identified condensation as an issue within the property. No other evidence was led by the Tenant in support of their contention that the property suffered from significant dampness. Using their own skill and experience and, taking account of the evidence which the Committee had observed at the inspection, the Committee were satisfied that the property does not suffer from significant dampness. The Committee accepted that the property does appear to suffer from the effects of condensation. The Committee further accepted that there could be a number of causes of condensation, but in this case, the Committee were not satisfied that there was a failure of the repairing standard in relation to the property concerned.
9. The Committee noted that the kitchen floor in the property showed evidence of wear and tear. The Tenants submitted that the kitchen floor constituted a health and safety hazard as certain parts of the floor were uneven and could cause injury when walking upon it. The Tenants further highlighted that the Landlord had, in a letter of 7 May 2015, accepted that there was a defect in the kitchen flooring and that work would be carried out to that flooring. Notwithstanding the Landlord's acceptance of defects within the flooring, the Committee were not satisfied that the wear and tear to the kitchen flooring was a significant risk to health and safety and, in particular, the Committee were not satisfied that (as part of the fixtures and fittings within the property), the flooring was not in a reasonable state of repair. The Committee considered that the flooring was in a reasonable state of repair and found no failure of the repairing standard in this respect.

10. The Committee had not been able to find any evidence of a hole under the kitchen sink. The Tenants complained of 'horrendous' drafts coming from under the sink. The Landlord highlighted that the Tenants had not previously complained of these issues until the date of their application (although the Tenants had raised a number of issues separate to this matter). The Tenants indicated that they had complained of this issue to the Landlord in person.

The Committee were not satisfied that there was evidence which supported the Tenants' complaint in this respect. In particular, the Committee were not satisfied that there was clear evidence that the property was not wind and watertight and in all other respects reasonably fit for human habitation. The Committee accordingly determined that there was no failure of the repairing standard in relation to this matter.

11. The Tenants complained of subsidence and that there is cracking on the walls and ceiling within the property. The Committee noted some minor cracking to plasterwork in the kitchen and hallway of the property. The Committee had, however, noted that there was no evidence of any material subsidence within the property. The Committee explained to the Tenants that they were required to take account of the age, character and prospective life of the property in determining whether the property meets the repairing standard. Given the age of the property and the minor nature of the cracking which the Committee had noted to certain parts of the plasterwork to the property, the Committee were not satisfied that there was a failure of the repairing standard in relation to this matter.

12. The Committee noted that there was one hardwired smoke detector situated within the hall of the property. The Committee were not satisfied that the fire detection equipment situated within the property was in accordance with the latest Scottish Government guidance for the satisfactory provision for detection and warning of fires. The Committee further noted that there was no carbon monoxide detector situated within the property, all as required by the Scottish Government Statutory guidance for the provision of carbon monoxide alarms in private rented

housing. The Committee accordingly determined that there is a failure by the Landlord to ensure that the property has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire as required by Section 13(1)(f) of the Act. The Committee were further not satisfied that the property meets the repairing standard as there was no satisfactory provision for giving warning if carbon monoxide is present in a concentration which is hazardous to health as required by Section 13(1)(g) of the Act.

13. The Committee noted and the Landlord accepted that the oven/grill was not fully operable as there was no knob to control the oven/grill. The Committee determined that, as the oven/grill was a fixture supplied by the Landlord under the tenancy, it was not in proper working order as required by Section 13(1)(d) of the Act.

14. The Committee accepted that there was some evidence that there was water leaking from the washing machine or from the plumbing which led to the washing machine. As the washing machine was a fitting supplied by the Landlord under the tenancy, the Committee were satisfied it did not meet the repairing standard as it was not in a reasonable state of repair as required by Section 13(1)(d) of the Act.

15. The Committee noted that the bath within the property did not appear to drain properly. The bath is a fitting supplied by the Landlord under the tenancy and was not in reasonable state of repair or in proper working order and, accordingly, did not meet the repairing standard as required by Section 13(1)(d) of the Act.

Decision

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

17. The decision of the Committee was unanimous.

Right of Appeal

18. 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

19. 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.

A. COWAN

Signed
Andrew Cowan, Chairperson

Date 17 March 2016

L. MCMANUS

.....Witness

Laura McManus, Secretary, 7 West George Street, Glasgow, G2 1BA



Flat 0/1 329 Bogmoor Road, Glasgow, G51 4SJ
PRHP/RP/15/0265
Schedule of Photographs - Inspection Date 14/03/16
Weather – Clear, dry and sunny



1. The property



2. The property



3. Mould at bedroom



4. Mould at bedroom



5. Mould at window



6. Mould at bedroom



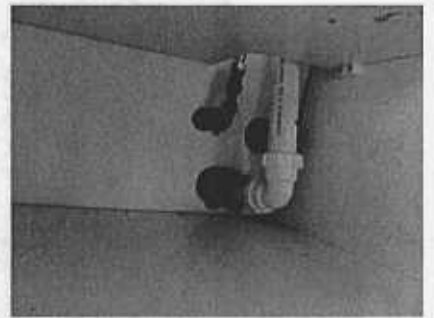
7. Mould at window



8. Mould at bedroom



9. Plaster cracks ceiling



10. Area under sink



11. Plaster cracking wall



12. Plaster crack at door



13. Hard wired smoke alarm



14. LR flooring



15. Loose grill/oven control



16. Kitchen floor



17. Bath drainage



18. Rear elevation

