



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

prhp Ref: PRHP/RP/16/0005

Re: Property at Southmost First Floor Flat, 273 Hilltown, Dundee, DD3 7AP (“the Property”)

Title No: ANG58944

The Parties:-

MR MOHAMMED KAMRUZ ZAMAN residing at 47 Park Road, Dundee, DD3 8LB (“the Landlord”)

MR KEVIN MARNIE formerly residing at 273 Hilltown, Dundee, DD3 7AP (“the Tenant”)

NOTICE TO MOHAMMED KAMRUZ ZAMAN (“the Landlord”)

Whereas in terms of their decision dated 7 April 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) Any fixtures, fittings and appliances provided by the Landlords under the tenancy are in a reasonable state of repair and in proper working order;
- (b) Any furnishings provided by the Landlords under the tenancy are capable of being used safely for the purpose for which they are designed;
- (c) The Property is wind and watertight and in all other respects reasonably fit for human habitation;

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 carry out such works of repair or replacement to the bedroom window as are required to allow it to both open properly on a tilt and turn basis as designed.
- (b) To carry out such works of cleaning or replacement to the carpets within the Property sufficient to render them compliant with the repairing standard.
- (c) To carry out such works as are necessary to prevent the ingress of water around the living room window area in the Property.
- (d) To carry out such works as are necessary to repair or replace the sliding doors to the wardrobe within the bedroom of the Property.

The Private Rented Housing Committee order that the works specified in this Order must be carried out and completed within the period of 28 days 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 and the preceding page are executed by Ewan Kenneth Miller, Solicitor, Whitehall House, 33 Yeaman Shore, Dundee, DD1 4BJ, Chairperson of the Private Rented Housing Committee at Dundee on 7 April 2016 before this witness:-

L Johnston

E Miller

—

_____ witness

_____ Chairman

Lindsay Johnston
Secretary
Thorntons Law LLP
Whitehall House
33 Yeaman Shore
Dundee
DD1 4BJ



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

prhp Ref: PRHP/RP/16/0005

Re: Property at Southmost First Floor Flat, 273 Hilltown, Dundee, DD3 7AP ("the Property")

The Parties:-

MR KEVIN MARNIE formerly residing at 273 Hilltown, Dundee, DD3 7AP ("the Tenant")

MR MOHAMMED KAMRUZ ZAMAN residing at 47 Park Road, Dundee, DD3 8LB ("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, 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 12 January 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 his duty to ensure that the house meets the repairing standard and in particular that the Landlord had failed to ensure that:-
 - (a) Any fixtures, fittings and appliances provided by the Landlords under the tenancy are in a reasonable state of repair and in proper working order;
 - (b) Any furnishings provided by the Landlords under the tenancy are capable of being used safely for the purpose for which they are designed;
 - (c) The Property is wind and watertight and in all other respects reasonably fit for human habitation;
3. By letter dated 3 February 2016 the President of the Private Rented Housing Panel intimated a decision to refer the application under Section 22 (1) of the Act to a Private Rented Housing Committee.
4. The Private Rented Housing Committee served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon both the Landlord and the Tenant.
5. Following service of the Notice of Referral neither party made any material representations to the Committee in advance of the hearing.
6. The Private Rented Housing Committee (comprising Mr E K Miller, Chairman and Legal Member and Mr H Maclean, Surveyor Member) inspected the Property on the morning of

4 April 2016. The Tenant was not present having vacated the Property. The Landlord was present during the inspection.

7. Following the inspection of the Property the Private Rented Housing Committee held a hearing at Kirkton Community Centre, Dundee. The Landlord was not present nor represented. The Tenant was not present nor represented.
8. The Tenant's application submitted that the Landlord had not attended to various repair issues. He submitted that the repairs had become urgent over the Christmas period and that water was coming into the Property. The nature of the work the Tenant submitted required was in relation to the bedroom window at the Property, glass above the front door, a gap in the kitchen where two walls met, the carpets at the Property, a leak within the living room window and the sliding doors to a wardrobe within the Property.
9. The Landlord submitted that he had been keen to carry out works but that the Tenant had proved difficult in relation to providing access. He also submitted that the Tenant had not been complaining of any repairs requirements until such time as the Tenant stopped forwarding the rent he received from the local authority. The Landlord submitted that some of the works required were due to the way the Tenant had occupied the Property and indicated that they were intending to refurbish the Property anyway prior to letting it.

Summary of the issues

10. The issues to be determined by the Committee were:-
 - Whether the bedroom window in the Property was jammed shut and was in proper working order.
 - Whether the glass above the front door was cracked and letting in water when it rained.
 - Whether there was a gap in the kitchen where two walls met at the inside corner and whether this was letting in draughts.
 - Whether the carpets within the Property met the repairing standard.
 - Whether the living room window was leaking.
 - Whether the sliding doors to a wardrobe within the Property were in proper working order or not.

Findings of fact

11. The Committee found the following facts to be established:-
 - The bedroom window in the Property was of the tilt and turn variety. Whilst it did open properly at the top it did not operate in the correct manner for side opening. There did not appear to be any gap between the window and the frame however.
 - There was a very small crack in the fan light above the front door. This was very minor and was not letting in water.
 - There was a very small gap in the kitchen at the meeting point of the two walls. This was a decorative item of disrepair only and met the repairing standard.
 - The carpets within the Property were old and unclean and did not meet the repairing standard as at the date of inspection.
 - There was a leak around the living room window within the Property.

- There appeared to be two sets of sliding doors within the Property. The sliding doors in the hallway met the repairing standard. The sliding doors in the bedroom did not meet the repairing standard.

Reasons for the decision

12. The Committee based its decision primarily on the evidence obtained during the course of the inspection.

The Committee first inspected the bedroom window in the Property. Whilst the handle operated partially and allowed the window to open at the top, it did not operate correctly to allow the whole window to swing open as it was designed to do. The Landlord would therefore require to carry out such works of repair or replacement as allowed this to occur. There was no gap in the frame and there appeared to be no evidence of water penetration however.

The Committee inspected the glass above the front door. There was a very small crack in this. The structural integrity of the overall unit appeared sound and the Committee was satisfied that no water was entering the Property. Accordingly the Committee was satisfied that this met the repairing standard.

The Committee then inspected the kitchen. There was a very small gap at the junction of two walls. However this was an internal dry lined wall and the Committee could not see that draughts could occur. The item complained of was very minor and was decorative only.

The Committee inspected the carpets within the Property. It was apparent that the carpets were not clean and required a fairly high degree of cleaning or to be replaced. This may well have been caused by the Tenant but the Committee had no way of knowing. In any event the Committee was satisfied that the carpets did not meet the repairing standard as at the date of the inspection and, in any event, the Landlord would require to carry out works of cleaning or replacement before the Property could be re-let.

The Committee inspected the living room window at the Property. Whilst the glass on the window was dry there was a pool of water at the base of it which suggested water penetration was occurring. It appeared that this was dripping from a trickle vent. From an external inspection it appeared that there may be water penetration occurring via defective guttering. It was for the Landlord to identify the cause of water ingress and to carry out such works as were necessary to rectify this.

Lastly the Committee inspected the doors to the wardrobe. There was a wardrobe in the hallway with sliding doors which did meet the repairing standard. The sliding doors in the bedroom were off the wardrobe and were clearly defective and required to be reinstalled.

Whilst not complained of, the Committee noted that there was only one hardwired smoke alarm in the Property. The Committee advised the Landlord during the course of the inspection that he would require to install a hardwired smoke alarm in the lounge and also a hardwired heat detector in the kitchen. All the detectors would require to be interlinked. The Committee also highlighted that the obligation to obtain an electrical installation condition report before the Property could be re-let.

The Committee considered a timescale for the works to be carried out. The Committee was of the view that none of the works were particularly significant and could be attended to as part of the ongoing refurbishment by the Landlord. Accordingly the Committee was satisfied that a period of 28 days would be sufficient.

Photographs taken during the inspection are annexed to this decision for information purposes.

Decision

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

Right of Appeal

- 16. **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

- 17. 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.

E Miller

Signed Date 15/4/16
Chairperson

Rear Exterior



Fanlight above entrance door



Bedroom window



Lounge/carpet



Lounge window



Water below lounge window



Corner of kitchen wall

