



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

prhp Ref: PRHP/RP/16/0054

Re: Property at Flat 6, 15 Restalrig Drive, Edinburgh EH7 6JX ("the Property")

Title No: MID151870

The Parties:-

MS MAGDALENA AGATA RAMATOWSKA, residing at 27/10 Blair Street, Edinburgh EH1 1QR ("the Landlord")

MR WESTLEY MURRAY, residing at Flat 6, 15 Restalrig Drive, Edinburgh EH7 6JX ("the Tenant")

NOTICE TO MS MAGDALENA AGATA RAMATOWSKA ("the Landlord")

Whereas in terms of their decision of even date, 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 meets the Repairing Standard in respect of:-

Section 13(1)(a): the house is wind and watertight and in all other respects reasonably fit for human habitation.

Section 13(1)(d): whether any fixtures, fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order.

Section 13(1)(f): whether the house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.

Section 13(1)(g): whether the house 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 Property 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:

1. Produce an up-to-date Gas Safety Certificate in respect of all gas appliances within the Property.
2. Remove or replace the gas fire in the living room.
3. Install a carbon monoxide detector within the Property.

4. Install smoke alarms within the Property to the standard currently recommended by the Scottish Government. There should be, at least, one functioning smoke alarm in the room which is frequently used by the occupants for general daytime living purposes, one functioning smoke alarm in every circulation space such as hallways and landings, one heat alarm in every kitchen and all alarms should be interlinked.
5. Fit a new double glazed window unit in the front bedroom.
6. Replace the broken pane of glass in the rear bedroom window and install a window lock.
7. Re-plaster and re-decorate the kitchen walls.

The Private Rented Housing Committee requires that the works specified in this Order must be carried out and completed within 6 weeks from the date of service of this Notice.

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.

Where such an appeal is made, the effect of the decision and 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(s) are executed by Richard Mill, Solicitor, chairperson of the Private Rented Housing Committee at Edinburgh on the Fifth day of May Two Thousand and Sixteen before this witness:-

M. MURRAY

R. MILL ¹

witness

Chairman
5 May 2016

Margaret Johnstone Murray
21 Stafford Street
Edinburgh
EH3 7BJ

Legal Secretary



Private Rented Housing Committee

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

Re: Flat 6, 15 Restalrig Drive, Edinburgh EH7 6JX ("the Property")

Title Number: MID151870

The Parties:-

MR WESTLEY MURRAY, residing at Flat 6, 15 Restalrig Drive, Edinburgh EH7 6JX ("the Tenant")

MS MAGDALENA AGATA RAMATOWSKA, residing at 27/10 Blair Street, Edinburgh EH1 1QR ("the Landlord")

Committee members:-

Richard Mill (Chairman) and Charles Reid Thomas (Surveyor Member)

Decision

The committee, having made enquiries 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, determined that the Landlord has failed to comply with their duty imposed by Section 14(1)(b) of the Act in respect that the Property does not meet the Repairing Standard.

Background

1. By way of application received on 10 February 2016 the Tenant applied to the Private Rented Housing Panel for a determination of whether the Landlord had failed to comply with their duties imposed by Section 14(1)(b) of the Act in respect of the Property.
2. In the application the Tenant stated that the Landlord had failed to comply with their duty to ensure that the house meets the Repairing Standard in a number of respects. The relevant aspects of the Repairing Standard put at issue are those contained within Sections 13(1)(a), (d), (f) and (g) which are in the following terms:-
 - whether the house is wind and watertight and in all other respects reasonably fit for human habitation.
 - whether any fixtures, fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order.
 - whether the house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.
 - whether the house has satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health.
3. Notices of Referral were issued to parties on 21 March 2016.

Inspection

4. The committee inspected the Property on 3 May 2016 at 10.30 am. The Tenant invited the committee members into the Property and directed them around. The Landlord had been invited to attend but did not do so.

Hearing

5. Following the inspection of the Property the committee convened a Hearing later the same day in George House, Room D8, 126 George Street, Edinburgh EH2 4HH. The Tenant appeared and provided evidence in support of their application. The Tenant was supported by Mr Cavanagh, his representative from the Edinburgh Housing Advice Partnership (EHAP). The Landlord appeared personally.

Summary of the issues

6. The issues to be determined by the committee are whether or not the Property meets the Repairing Standard to the extent put at issue within the application, as at the date of the Hearing.
7. The matters complained of by the Tenant in the application were:-

- A number of complaints were raised in respect of the windows. It was alleged that the double glazing is cracked in the window of the main bedroom. It was stated that the catch on the window is damaged. It was stated that there is a hole in the second bedroom window.
- Reference is made to walls which were crumbling and in need of re-decorating.
- It was stated that vents in the fireplace required covering.
- General safety issues were raised in respect of the fire and gas services. It was suggested that there is no Gas Safety Certificate.
- The lack of smoke alarms and a carbon monoxide alarm was raised.

Findings in Fact

8. The committee makes the following findings in fact:

- 8.1 The title to the subjects known as Flat 6, 15 Restalrig Drive, Edinburgh EH7 6JX is held by the Landlord. Her interest is registered in the Land Register of Scotland under Title Number MID151870 on 11 March 2014.
- 8.2 The Property which is the subject of this application is an ex-Local Authority two bedroomed second floor flat within a traditional tenement.
- 8.3 The parties entered into a Tenancy Agreement which is dated 6 August 2015. The tenancy created is an Assured Shorthold Tenancy.
- 8.4 The Tenant has resided in the Property for some years prior to the Tenancy Agreement being entered into. The Landlord purchased the Property subject to the existing tenancy.
- 8.5. In relation to the matters complained of in the Application the committee's inspection revealed:-
 - i. There is no carbon monoxide detector in the Property.
 - ii. There is one battery operated smoke alarm within the hallway of the Property which did not appear operative.
 - iii. There was no Gas Safety Certificate available for inspection.
 - iv. The gas fire appliance in the living room of the Property is inoperative. The rear components of the fire remain in place, including the vent. The vent is covered with a black bag.

- v. The double glazed front bedroom window is badly cracked. The opening/closing/locking mechanism is broken. The window is not capable of being closed nor locked.
- vi. The window of the rear bedroom is broken. This is a single glazed unit made up of a number of small glass panels. It is one of the small glass panels which is broken. There is no lock mechanism.
- vii. The plaster walls in the kitchen are defective. The plaster around the doorframe is, at places, loose and crumbling. There is a disused vent hole above the gas boiler which is not wind and watertight. There is also a hole in the plaster to the wall which adjoins the bathroom.
- viii. Reference is made to the attached Schedule of Photographs produced in the Annex.

Reasons for the Decision

- 9. The committee determined the application having regard to the bundle of papers (which had been made available in advance to parties), their inspection, together with the evidence of those in attendance at the Hearing.
- 10. The committee was only able to formally consider the Tenant's complaints which formed part of the intimated application. The committee was also under an obligation to consider the Tenant's complaints as at the time of the Hearing on 3 May 2016.
- 11. The committee was satisfied having regard to all of the available evidence that there was sufficient information and material upon which to reach a fair determination of the reference.
- 12. The Landlord accepted at the Hearing that the issues raised by the Tenant and verified by the committee at their inspection were indeed valid issues which require rectification within the Property. The Landlord's position is that she purchased the Property subject to the tenancy and for a variety of reasons access has been difficult in order to have the work carried out.
- 13. The committee was satisfied that the issues detected at the time of their inspection, as set out in paragraph 8.5, evidence the fact that the Property does not meet the repairing standard. The Landlord did not suggest otherwise.

Decision

- 14. The Property does not meet the Repairing Standard. The Landlord has not complied with their duty imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006. A Repairing Standard Enforcement Order is necessary. A Repairing Standard Enforcement Order is issued contemporaneously herewith.

Observations

15. Though not raised within the application, the committee observed at the time of their inspection that the electrical system and consumer unit is of some age. The buzzer entry system hand phone is not operative. The Landlord has not had any electrical checks carried out in respect of the Property. The committee would expect the Landlord to instruct an Electrical Installation Condition Report (EICR) and ensure that any recommended works arising from the terms of any such Report be implemented.
16. The Tenant should importantly note, as he was reminded at the Hearing, that it is essential that he ensures that adequate access is afforded to the Landlord and any contractors or tradesmen to enable the Repairing Standard Enforcement Order to be implemented by the Landlord timeously. The Tenant's representative, Mr Cavanagh, indicated a willingness to assist in such arrangements being made.

Right of Appeal

17. 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 of the Act

18. Where such an appeal is made, the effect of the decision and of any order made, 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 date on which the appeal is abandoned or so determined.

M. MURRAY

witness

Margaret Johnstone Murray
21 Stafford Street
Edinburgh
EH3 7BJ

Legal Secretary

R. MILL

chairman

Date: 5 May 2016

Davidson & Robertson

RURAL

Photographic Record of: 15/6 (2nd floor, right) Restalrig Drive, Edinburgh, EH7
6JX
Inspection 3.5.16



15/6 Restalrig Drive



Only 1 battery operated smoke detector present (not working). No hard wired detectors or CO detector present.



No annual gas inspection has been carried out.



Front bedroom window. Double glazed unit cracked with inoperable closing mechanism. Requires to be replaced.



Rear bedroom window, broken pane and no locking mechanism. Window requires to be repaired.



Kitchen – walls require to be plasters and decorated.



Kitchen. Walls require to be plastered and decorated. Redundant vents to be made good.



Living Room. Redundant Fireplace require to be removed and opening made good.



Electrics do not seem to have been inspected since 2007.