



## Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

prhp Ref: PRHP/RT/16/0122

Re : Property at Flat 1/3 (or 10C) 10 Lorimer Street, Dundee DD3 6RZ ("the Property/the house")

**Sasine Description:** ALL and Whole the northmost first floor dwellinghouse of the tenement 10 Lorimer Street, Dundee, being the subjects more particularly described in and disposed by Disposition by William Henry Blyth and another, with consent thereinmentioned, in favour of Norman Hill, dated 26 December 1969, 5 January and 8 June, both 1970 and recorded in the Division of the General Register of Sasines applicable to the County of Angus on 7 April 1971.

**The Parties:-**

**Mark Tait, residing at 10C Lorimer Street, Dundee DD3 6RZ and, as a Third Party, Dundee City Council, Private Sector Services Department, Dundee House, 50 North Lindsay Street, Dundee DD1 1NB ("the Tenant")**

**Stobmuir Enterprises Limited, care of Mohamed El-Bakery, 15 Albert Street, Dundee DD4 6NS ("the Landlord")**

### **NOTICE TO STOBMUIR ENTERPRISES LIMITED ("the Landlord")**

Whereas in terms of their decision dated 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 and in particular that the Landlord has failed to ensure that:-

- (a) the installations in the Property for the supply of water, gas and electricity and for sanitation, space heating and heating water are in a reasonable state of repair and in proper working order, and
- (b) 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:-

1. To instruct suitably qualified tradesmen to repair and reinstate the kitchen ceiling, to relocate the kitchen units and worktops for proper function, to make good the plaster and tiling on the kitchen walls and above the kitchen floor units and to redecorate the room when the works have been completed.
2. To provide to the Committee an up to date Electrical Installation Condition Report covering the entire electrical installation in the Property, including lighting, sockets, heating and fire insulation.
3. To make good the plaster and tiling in the bathroom.
4. To carry out such repairs as are required to render the external door of the Property wind and water proof, by installing proper door stops and draught proofing strips.
5. To provide such heating appliances as are required to ensure that there is adequate heating to the living area of the Property and
6. To provide to the Committee written confirmation from Scottish Gas Networks that the gas supply to the Property has been properly and safely isolated.

The Private Rented Housing Committee order that the works specified in this Order must be carried out and completed within the period of 6 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.

In witness whereof these presents typewritten on this and the preceding page are executed by George Barrie Clark, solicitor, Lasswade, chairperson of the Private Rented Housing Committee at Lasswade, on 23 June 2016, before this witness, Valerie Elizabeth Jane Clark, Droman House, 5 School Brae, Lasswade, Midlothian.

**V Clark** \_\_\_\_\_ witness

**G Clark** \_\_\_\_\_ chairman



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

**prhp Ref: PRHP/RT/16/0122**

**Re: Property at Flat 1/3 (or 10C) 10 Lorimer Street, Dundee DD3 6RZ (“the Property/the house”)**

### **The Parties:-**

**Mark Tait, residing at 10C Lorimer Street, Dundee DD3 6RZ and, as a Third Party, Dundee City Council, Private Sector Services Department, Dundee House, 50 North Lindsay Street, Dundee DD1 1NB (“the Tenant”)**

**Stobmuir Enterprises Limited, care of Mohamed El-Bakery, 15 Albert Street, Dundee DD4 6NS (“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 both the Landlord and the Tenant 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 4 March 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) the installations in the house for the supply of water, gas and electricity and for sanitation, space heating and heating water are in a reasonable state of repair and in proper working order and
  - (b) any fixtures, fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order,
3. By letter dated 12 May 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 further written representations to the Committee.

6. The Private Rented Housing Committee inspected the Property on the morning of 23 June 2016. The Tenant and Lindsay Watson, Enforcement Officer, Private Sector Services Unit, Dundee City Council were present at the inspection. Mohamed El-Bakery of the Landlord company attended the Property but was not permitted by the Tenant to enter the Property at the inspection, other than for the limited purpose of inspecting the kitchen ceiling.
7. The Committee comprised George Clark(Chairman) and Harry Maclean(Surveyor member).
8. A file of photographs, taken at the inspection, is attached to and forms part of this Statement of Decision.
9. Following the inspection of the Property the Private Rented Housing Committee held a hearing at Caledonian House, Greenmarket, Dundee DD1 4QX and heard from the Tenant, Lindsay Watson on behalf of the Third Party, Mohamed El-Bakery as representing the Landlord company and James Batchelor, a joiner engaged by the Landlord to carry out work in the Property.
10. The Tenant, in his application, submitted as follows:- the landlord should replace the kitchen ceiling, replace the kitchen sink, repair the plaster and tiles on the kitchen wall, remove and replace the flooring in the kitchen, replace the worktops, repair or replace the kitchen units, repair or replace the electrical sockets in the kitchen, replace the bathtub, replace the plaster in the bathroom, replace the tiles in the bathroom, replace the front door and replace the heating appliances in the Property. At the hearing, the Tenant told the Committee that there had been a leak from the waste pipe of the toilet in the flat above the Property in July/August 2015. There had been a crack in the ceiling plaster at the time he moved in to the Property, caused by a leak from the stop cock valve in the flat above. This had been fixed, but there had still been water coming through and this had been traced to the waste pipe of the toilet. This too had been fixed and there had been no further leaks, but the ceiling had come down and the joists above had been soaked. The kitchen units, tiling and laminate flooring had been damaged to such an extent that they required to be replaced. The Tenant told the Committee that he would describe himself as a handyman. He had bought and fitted a replacement kitchen sink and worktop and had also bought and fitted a replacement bathtub. He had bought a replacement wash hand basin, but had not yet fitted it. He had offered to refit the kitchen to save the Landlord money, as he was living in the Property and could do the work more cheaply. The Landlord had asked him to provide an estimate, which he had done, but the Landlord was now saying he was not prepared to pay for the kitchen as the damage was the fault of the upstairs neighbour. The tenant had repaired the stop cock valve in the flat above and there had not been any further leaks from it. He had also, at the request of the landlord of the flat above, repaired to toilet waste pipe and it had not leaked since either. The Tenant told the Committee that he had not carried out any work on the waste pipe prior to its leaking and causing the ceiling to collapse.
11. The Landlord submitted as follows:- The Tenant had wanted to repair things himself, but he had done work in the upstairs flat and it had then leaked again. When the ceiling collapsed the Landlord wanted to get a builder in, but the Tenant had wanted to change the kitchen layout, so did not want the Landlord's tradesmen in the Property. The Landlord alleged that he had been threatened by the Tenant, but the Tenant denied this at the hearing. The Landlord told the Committee that he wanted an Order to be made, so that it could be enforced and his joiner could carry out the necessary work. The Tenant had replaced the bathtub, but it was a completely different colour from the toilet and wash hand basin. The Landlord said that he had bought all the materials and asked his joiner to carry out the work. The Landlord's joiner, James Batchelor, was present at the hearing and told the Committee that approximately a year ago, he had gone to the Property and had provided the Landlord with an estimate for repairing the kitchen ceiling. On the Monday prior to the hearing date, he had intended to return to fit the kitchen, but the Tenant had phoned him to say he had already fitted it, so Mr Batchelor did not need to go to the Property. The Tenant had also told him not to call to fix the ceiling either.

### **Summary of the issues**

12. The issues to be determined were whether the Property met the repairing standard as laid down in Section 13 of the Act and whether the Landlord had complied with the duties imposed on landlords by Section 14(1)(b) of the Act.

### **Findings of fact**

13. The Committee finds the following facts to be established:-
  - The tenancy is a Short Assured Tenancy which commenced on 21 August 2013. It was due to terminate on 21 August 2015 and, as the Tenant is still in possession, the Committee assumes it is continuing by tacit relocation.
  - The Property is a first floor flat in a traditional stone-built tenement with a pitched and slated roof, erected in approximately 1865.
  - The central portion of the suspended kitchen ceiling has collapsed. There are significant missing sections of plaster, exposing the joists above. Tiling has come off the walls of the kitchen, causing some damage to the plaster.
  - The area above the collapsed ceiling was tested with a moisture meter at the inspection and appears to have dried out.
  - The floorcovering in the kitchen, believed to have been laminate flooring, has been removed and the flooring currently is plywood sheeting.
  - The kitchen sink, worktops and units are in reasonable condition.
  - The Committee was unable to test the electrical sockets.
  - The bath has been replaced with a white bathtub and there is a white wash hand basin in the room but not installed. They do not match the colour of the existing wash hand basin and toilet.
  - There is a substantial area of tiling missing above the toilet.
  - There is a gap around the edge of the front door of the Property, but the door itself is secure.
  - There is a plug-in electric heater in the hallway, but this was provided by the Tenant. There is no radiator in the kitchen. There is a wired-in electric heater in the living room.

### **Reasons for the decision**

14. The kitchen ceiling is in a potentially dangerous condition and requires to be reinstated and the Property is not currently fit for human habitation with the ceiling collapsed. The kitchen units require to be relocated and adjusted and plaster repairs will be needed prior to the wall areas above the kitchen floor units being re-tiled and the room redecorated. The Committee wishes to see an Electrical Installation Condition Report, in order to be satisfied that the electrical sockets are in safe working order. It is for the Landlord to decide whether the existing wash hand basin should be replaced with the white one supplied by the Tenant and the Committee cannot make an Order to that effect, as there is no indication that the present wash hand basin does not meet the Repairing Standard. The plaster in the bathroom requires to be made good and the tiling reinstated. Work is required to make the front door of the Property wind and water proof. The provisions for heating in the Property are inadequate, particularly in the living room area.
15. The Committee was concerned to note that there is a gas supply pipe in the kitchen which is not secured to the wall. There is a potential danger of its being damaged and causing a gas leak. The Parties were of the view that there is currently no gas supply to the Property, but the Committee would recommend that the pipe is secured to the wall or taken down and capped at floor level and, whilst it does not form part of the application, the Committee is so concerned about the possible danger that it wishes to see evidence that the gas supply to the Property has been disconnected, as the Parties believe to be the case. The Committee also noted that the cover of the mains-wired smoke detector in

the hallway has been removed and that there is no heat detector in the kitchen. The Committee would expect the Landlord to deal with both of these issues.

#### **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.
17. The Committee proceeded to make a Repairing Standard Enforcement Order as required by section 24(1).
18. The decision of the Committee was unanimous.

#### **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.

Signed ..... **G Clark** ..... Date: 23 June 2016  
Chairperson