



Repairing Standard Enforcement Order
Ordered by the Private Rented Housing Committee

Ref PRHP/RT/16/0279 and PRHP/RT/16/0280

Property 6 B, Academy Street, Dumfries, DG1 1BY being part of the subjects described in the Disposition by Paul Gulzara Singh and others as Trustees for their firm of Alpine Properties in favour of Victor Balwinder Singh dated 30th November 1993 and recorded in the Division of the General Register of Sasines for the County of Dumfries on 11th January 1994 (Search Sheet Number 9256) ('the Property')

Dumfries and Galloway Council, Municipal Chambers, Buccleuch Street, Dumfries, DG1 2AD ('the Third Party Applicant')

Victor Singh and Mrs Elayne Singh residing at Beechwood Bank, Nithbank, Dumfries, DG1 2RZ ('the Landlords')

Miss Paula Curley residing formerly at 6, Academy Street, Dumfries, DG1 1BY ('the Tenant')

The Committee members are Jacqui Taylor (Chairperson) and Robert Buchan (Surveyor Member).

NOTICE TO
The said Victor Singh and Mrs Elayne Singh

Whereas in terms of their decision dated 4th November 2016, the Private Rented Housing Committee determined that the Landlords have failed to comply with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 and in particular the Landlords have failed to ensure that: the Property is wind and watertight and in all other respects reasonably fit for human habitation; the structure and exterior of the Property (including drains, gutters and external pipes) are in a reasonable state of repair or in proper working order; 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 proper working order and the Property has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.

The Private Rented Housing Committee now requires the Landlords 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 ('PRHC') requires the Landlords to:-

1. Repair the roof of the Property, including the communal stairwell, to render it wind and water tight and in proper working order.
2. Repair or replace the broken window in the stairwell.

3. Repair or replace the window joinery and fascias of the dormer windows to render them in a reasonable state of repair and in proper working order.
4. Repair or replace the defective rendering between the roof at the front of the property and the adjoining building to render it wind and watertight and in a reasonable state of repair and in proper working order.
5. Remove the vegetation from the downpipes and rainwater fittings to render them in proper working order.
6. Reinstate the fallen ceiling in the front bedroom and repair the bathroom ceiling to render them in a reasonable state of repair and in proper working order.
7. Repair the water ingress to the hall cupboard to render it wind and water tight and repair or replace the damp hardboard flooring of the hall cupboard.
8. Repair or replace the kitchen window to render it in proper working order.
9. Provide the PRHC with an unqualified Electrical Installation Condition Report on the electrical installation (including the smoke and heat detectors) and carry out any required works.
10. Reinstate or replace the boiler and make good the holes in the external wall. Thereafter provide a report from a suitably qualified heating engineer to confirm that the boiler and heating system are in a reasonable state of repair and in proper working order.
11. Provide a compliant Gas Safety Certificate to the PRHC.

The Private Rented Housing Committee order that these Certificates must be exhibited by and these works must be carried out and completed by **31st January 2017**.

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 subscribed at Irvine on 4th November 2016 by Jacqui Taylor, chairperson of PRHP, 65, High Street, Irvine in the presence of the witness Keirsten Byrne, 65, High Street, Irvine

Signed.....
Chairperson

J Taylor

..... Date 4th November 2016

K Byrne

....witness



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

Ref PRHP/RT/16/0279 and PRHP/RT/16/0280

Property 6 B, Academy Street, Dumfries, DG1 1BY being part of the subjects described in the Disposition by Paul Gulzara Singh and others as Trustees for their firm of Alpine Properties in favour of Victor Balwinder Singh dated 30th November 1993 and recorded in the Division of the General Register of Sasines for the County of Dumfries on 11th January 1994 (Search Sheet Number 9256) ('the Property')

Dumfries and Galloway Council, Municipal Chambers, Buccleuch Street, Dumfries, DG1 2AD ('the Third Party Applicant')

Victor Singh and Mrs Elayne Singh residing at Beechwood Bank, Nithbank, Dumfries, DG1 2RZ ('the Landlords')

Miss Paula Curley residing formerly at 6, Academy Street, Dumfries, DG1 1BY ('the Tenant')

The Committee members are Jacqui Taylor (Chairperson) and Robert Buchan (Surveyor Member).

Decision

The Committee, having made such enquiries as it saw fit for the purposes of determining whether the Landlords have complied with the duty imposed by Section 14 (1)(b) in relation to the Property, determined that the Landlords have failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

Background

- 1. The Third Party Applicant applied to the Private Rented Housing Panel for a determination of whether the Landlords have failed to comply with the duties imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 ("the Act").**
- 2. The application stated that they considered that the Landlords have failed to comply with their duty to ensure that the Property meets the repairing standard. They advised that the Property was not wind and watertight and in all other respects reasonably fit for human habitation; the structure and exterior of the Property (including drains, gutters and external pipes) are not in a reasonable state of repair and in proper working order; the installations in the Property for the supply of water, gas and electricity and for sanitation, space heating and heating water are not in a reasonable state of repair and proper working order and the Property does not have satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.**

In particular the application stated:-

- 2.1 Long standing rainwater ingress through multiple roof leaks.
- 2.2 Saturated ceilings have fallen down in four rooms.
- 2.3 Extensive fungal growth on the wet carpets.
- 2.4 Consumer box tripping with electrics affected by water.
- 2.5 All smoke detectors have been disabled due to water ingress.
- 2.6 Uninhabitable rooms on the second and first floor.
- 2.7 Kitchen tilt and turn window does not close.
- 2.8 Boiler is showing evidence of a leak over a prolonged period.

The application also stated that the Tenant of the Property is Miss Paula Curley residing formerly at 6, Academy Street, Dumfries, DG1 1BY ('The Tenant').

3. The President of the Private Rented Housing Panel, having considered the application, comprising documents received on 24th August 2016, referred the application under Section 22 (1) of the Act to a Private Rented Housing Committee.

4. The Committee members were Jacqui Taylor (Chairperson) and Robert Buchan (Surveyor Member).

5. The Private Rented Housing Committee served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon both the Landlords, Dumfries and Galloway Council and, for information purposes, on the Tenant.

6. The Committee had received a copy of the lease in favour of the Tenant dated 29th December 2014. The Landlords on the lease were stated to be V & E Properties of Beechwoodbank, Nithbank, Dumfries. The Committee had also received with the papers a copy of the search sheet for the property which disclosed that the registered heritable proprietor of the Property is Victor Balwinder Singh.

7. The Committee attended at the Property on 18th October 2016. The Property was unoccupied. Victor Singh, one of the Landlords, and Alan Glendinning of Dumfries and Galloway Council were present at the inspection.

Victor Singh explained to the Committee that he owns two flats at 6 Academy Street, Dumfries. The flat that was leased to the Tenant Paula Curley was flat 6B, which is the two bedroom property.

The Property, 6B Academy Street, Dumfries, is a first and second floor maisonette with commercial properties located on the ground floor. The Property has a mansard style roof with a slate clad slope to the front and a flat felt covered roof at the rear. The accommodation comprises two bedrooms, living room, kitchen and bathroom.

The Committee inspected the alleged defects and found:-

7.1 Long standing rainwater ingress through multiple roof leaks, saturated ceilings have fallen down in four rooms and uninhabitable rooms on the second and first floor.

Victor Singh explained that the flat roof had been replaced three or four weeks ago. He also advised that he suspected that the reference to ceilings having fallen down in four rooms was to the ceilings of the adjoining flat 6A, Academy Street.

The Committee saw that the ceiling in the front bedroom had collapsed and there was water dripping through the sodden decking of the flat roof. There was a hole in the ceiling of the bathroom caused by water damage and the ceiling was still damp. The hardboard flooring of the hall cupboard was wet. There was dampness to the ceiling of the stairwell and the window in the stairwell was broken, allowing water ingress.

The Committee viewed the roof of the Property externally and saw that the flashing between the roof and the adjoining tenement was in a poor condition as a section of the flashing was missing. The window joinery and fascias of the windows at the front of the Property were in a poor condition. They also saw that there was extensive vegetation growing on the front wall adjacent to the downpipe to the right hand side of the building and rendering has fallen off the wall.

7.2 Extensive fungal growth on the wet carpets.

The carpets in question were located in the adjoining property flat 6A, Academy Street.

7.3 Consumer box tripping with electrics affected by water and all smoke detectors have been disabled due to water ingress.

The consumer unit and electrics in the Property had been disabled by the Landlords due to the water ingress. There was a hard wired heat detector in the kitchen and hard wired smoke detectors in the living room, hall and bedroom. It was not possible to test them at the hearing.

7.4 Kitchen tilt and turn window does not close.

The double glazed window in the kitchen does not close.

7.5 Boiler is showing evidence of a leak over a prolonged period.

The boiler in the kitchen had been removed and there were holes through the external wall where the flue had been.

The Committee were concerned to note that there is no handrail for the steep stair in the Property. They acknowledged that this matter is not part of the application but wish to draw this defect to the Landlords' attention.

Photographs were taken during the inspection and are attached as a Schedule to this report.

8. Following the inspection of the Property the Private Rented Housing Committee held a hearing at The Best Western Stataion Hotel, 49 Lovers Walk, Dumfries, DG1 1LT.

Victor and Elaine Singh, the Landlords and Alan Glendinning of Dumfries and Galloway Council attended the hearing.

The Committee considered three preliminary matters.

(One) The Two Applications.

Alan Glendinning explained that Dumfries and Galloway Council had lodged two separate applications as Victor and Elaine Singh were both registered Landlords of the Property. However he confirmed that both applications were in identical terms. The Committee determined that both applications would be cojoined and dealt with together.

(Two) The Identity of the Landlords.

Victor Singh confirmed that he is the heritable proprietor of the Property. Victor and Elaine Singh confirmed that they are both the registered Landlords with Dumfries and Galloway Council. They also confirmed that V & E Properties is Victor and Elaine's business partnership and V & E Properties is stated to be the Landlord in the Lease in favour of the Tenant.

(Three) The leased Property.

Victor Singh confirmed that they had only leased the two bedroom flat 6B Academy Street, Dumfries to the Tenant. She had broken into the adjoining property but it was never part of the leased subjects.

In respect of the matters in the application the parties advised as follows:

8.1 Long standing rainwater ingress through multiple roof leaks, saturated ceilings have fallen down in four rooms and uninhabitable rooms on the second and first floor.

Victor Singh explained that he had employed W D Dempster to strip back and repair the whole of the flat roof including where it extended over the two dormer windows to the front.

8.2 Extensive fungal growth on the wet carpets.

Victor Singh confirmed that the carpets in question were located in the adjoining property flat 6A, Academy Street and were not part of the Property let to Paula Curley.

8.3 Consumer box tripping with electrics affected by water and all smoke detectors have been disabled due to water ingress.

Victor Singh explained that the Tenant had damaged the smoke detector system. They would be able to provide documentary evidence that the system was in proper working order at the commencement of the lease.

8.4 Kitchen tilt and turn window does not close.

Victor Singh explained that the hinges of the double glazed window in the kitchen were broken and the window had dropped and consequently it was not possible to close it.

8.5 Boiler is showing evidence of a leak over a prolonged period.

Victor Singh explained that the boiler had been removed for safety reasons. He said the Tenant had tampered with the boiler and she was responsible for it not working properly. He would be able to provide documentary evidence confirming this.

The Committee agreed to defer issuing their decision for one week to allow the Landlords an opportunity to produce to the PRHP Administration documentary evidence that the smoke alarm system and the boiler were in proper working order at the commencement of the lease. However the Landlords had not produced to the PRHP Administration this documentation by 28th October 2016.

9. Summary of the issues

The issues to be determined are:-

9.1 The Property is not wind and watertight and in all other respects reasonably fit for human habitation (Sections 13(1)(a) of The Housing (Scotland) Act 2006).

Whether the stated water ingress and dampness in the Property results in the Property not being wind and water tight and in all other respects reasonably fit for human habitation.

9.2 The structure and exterior of the house (including drains, gutters and external pipes) are not in a reasonable state of repair and in proper working order (Sections 13(1) (b) of The Housing (Scotland) Act 2006).

Whether the ceilings of the front bedroom, bathroom and stairwell are in a reasonable state of repair.

Whether the window joinery and fascias of the dormer windows are in a reasonable state of repair.

Whether the flooring of the hall cupboard is in a reasonable state of repair.

Whether the stairwell window and the kitchen window is in a reasonable state of repair and proper working order.

9.3 That the installations in the Property for the supply of water, gas and electricity and for sanitation, space heating and heating water are not in a reasonable state of repair and in proper working order (Section 13(1)(c) of The Housing (Scotland) Act 2006).

Whether the gas central heating system and electrical systems in the Property are in a reasonable state of repair and proper working order.

9.4 That the Property does not have satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire (Section 13(1)(f) of The Housing (Scotland) Act 2006).

Whether the heat detector and smoke alarms in the Property are in proper working order..

10. Findings of fact

10.1 The Property is not wind and watertight and in all other respects reasonably fit for human habitation (Section 13(1) (a) of The Housing (Scotland) Act 2006).

The Committee determined that the:-

- water penetration to the roof;
- the defective roof flashing;
- the dampness to the ceilings of the front bedroom, bathroom and stairwell;
- the dampness in the flooring of the hall cupboard and
- the broken stairwell window

Results in the Property not being wind and water tight and in all other respects reasonably fit for human habitation.

10.2 The structure and exterior of the house (including drains, gutters and external pipes) are not in a reasonable state of repair and in proper working order (Section 13(1) (b) of The Housing (Scotland) Act 2006).

The Committee determined that the:-

- fallen down ceiling of the front bedroom;
- the damp ceilings of the bathroom and stairwell of the Property;
- the damp flooring of the hall cupboard;
- the downpipes being overgrown with vegetation;
- the window joinery and fascias of the dormer windows being in a poor condition and
- the broken stairwell window

Result in them not being in a reasonable state of repair.

They also determined that as the kitchen window does not close it is not in a reasonable state of repair and proper working order.

10.3 That the installations in the Property for the supply of water, gas and electricity and for sanitation, space heating and heating water are not in a reasonable state of repair and in proper working order (Section 13(1)(c) of The Housing (Scotland) Act 2006).

As the Landlords had not produced to the Committee evidence that the boiler, central heating system and electrical systems of the Property are in a reasonable state of repair and proper working order the Committee determined that they not in a reasonable state of repair and proper working order.

10.4 That the Property does not have satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire (Section 13(1)(f) of The Housing (Scotland) Act 2006).

The Committee acknowledged that the statutory guidance requires:

- 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.
- All alarms should be interlinked.

As the Landlords had not demonstrated to the Committee or provided documentary evidence that the smoke and heat detectors in the Property are in proper working order the Committee determined that they not in a reasonable state of repair and proper working order.

Decision

11. The Committee accordingly determined that the Landlord had failed to comply with the duties imposed by Sections 13 (1)(a), 13(1)(b), 13(1)(c) and 13(1)(f) of the Act, as stated.

12. The Committee proceeded to make a Repairing Standard Enforcement Order as required by section 24(1).

13. The decision of the Committee was unanimous.

Right of Appeal

14. 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

15. 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
Chairperson

J Taylor

..... Date 4th November 2016

Photographs taken during the inspection of
6 Academy Street, Dumfries, DG1 1BY



Front - Top two floors right



Rear of the building

Photographs taken during the inspection of
6 Academy Street, Dumfries, DG1 1BY



Kitchen



Boiler removed and window not able to be closed

Photographs taken during the inspection of
6 Academy Street, Dumfries, DG1 1BY



No handrail on steep stair



Bathroom

Photographs taken during the inspection of
6 Academy Street, Dumfries, DG1 1BY



Dampness threat to electric light in bathroom



Rainwater penetration and collapsed ceiling in bedroom

Photographs taken during the inspection of
6 Academy Street, Dumfries, DG1 1BY

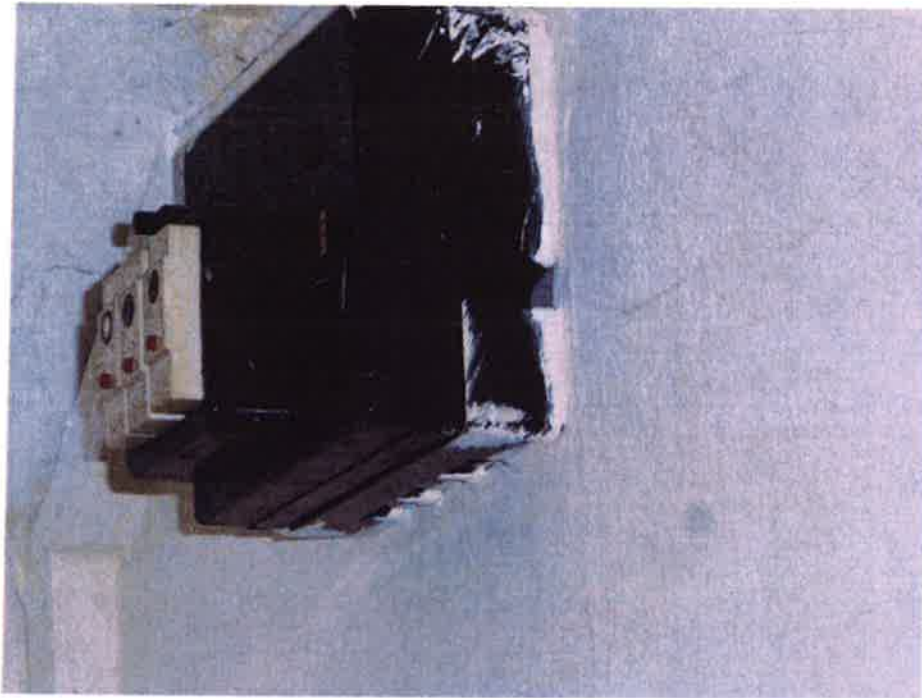


Dampness on ceiling of stairwell



Broken window at top of stairwell

Photographs taken during the inspection of
6 Academy Street, Dumfries, DG1 1BY



Consumer unit



Roof detail showing vegetation and missing flashing

Photographs taken during the inspection of
6 Academy Street, Dumfries, DG1 1BY



Detail of defective rendering, vegetation and choked downpipe