



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

prhp Ref: PRHP/RP/13/0143

Re: Property at 2G Baldovan Terrace, Dundee, DD4 6ND ("the Property")

The Parties:-

AGNIESZKA BODAK formerly residing at 2G Baldovan Terrace, Dundee, DD4 6ND ("the Tenant")

JOSEPH FRANCIS McGRATH and **GRACE TERESA McGRATH** residing at 62 Cabin Hill Gardens, Knock, Belfast ("the Landlords")

Decision

The Committee, having made such enquiries as it saw fit for the purposes of determining whether the Landlord had complied with the Repairing Standard Enforcement Order ("RSEO") in relation to the Property concerned and taking account of the subsequent reinspection of the Property by the Committee, determined that the Landlord had not yet complied with the terms of the RSEO. No Certificate of Completion in respect of the works required by the RSEO would be issued at this stage and the RSEO would remain in place.

Background

1. By way of a Decision dated 12 May 2014, the Private Rented Housing Committee issued a determination that 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 Committee had placed an RSEO on the Property also dated 12 May 2014. The RSEO required the Landlord:-
 - (a) To obtain a structural engineer's report over the Property to ascertain whether any movement within the Property is historic or ongoing. The Landlords require to carry out any works recommended by the structural engineer's report to ensure that the structural integrity of the building is sound. The Landlords are required to exhibit the structural engineer's report to the Committee as soon as obtained.
 - (b) To identify and repair all sources of water ingress to the Property. Once all areas of water ingress have been identified and repaired, the Landlords are required to carry out such works of repair and redecoration internally to ensure that the Property meets the repairing standard.
 - (c) To carry out such works of repair or replacement to the cupboard door/frame within the living room to ensure that it can be opened and closed properly.
 - (d) To properly repair and redecorate the bathroom ceiling.
 - (e) To install a means of mechanical ventilation in the bathroom.
 - (f) To properly replace the silicone seals around the bath/shower and sink.

- (g) Once the source of water ingress to the communal landing has been identified, to carry out such works of repair or redecoration as are necessary to bring the upper area of the stairwell landing back to the repairing standard.
 - (h) To replace any broken or smashed glass in the stairwell landing window and to repair the hole in the stairwell landing roof.
 - (i) To investigate whether the stairwell cupboard door can be opened and closed properly and carry out any works to the door/frame required to ensure this is the case.
3. A reinspection of the Property had been carried out previously on 19 January 2015. The Landlord had not attended to the majority of the works at that stage and accordingly on 16 April 2015 a Rent Relief Order of 90% was imposed on the Property.
4. A reinspection by Mr E K Miller and Mr D Godfrey of the Committee took place on 12 April 2016. It was apparent that the Landlord had now carried out the majority of the items required by the RSEO. At that date of the inspection, roof works were being carried out to address water penetration into the Property. The Landlord had previously had works carried out and paid for but it had transpired that the tradesmen had carried out works to the wrong part of the tenement roof. Subsequent to the Committee reinspection, the Landlord provided evidence that the roof works had been completed. Given that the Committee had seen the roof works ongoing during the course of the reinspection the Committee was satisfied that the works had been done subsequent to their visit. The Committee had noted that there appeared to be no further ongoing water penetration into the Property.

The Committee noted that the cupboard door/frame within the living room was now in proper working order.

The bathroom ceiling had been repaired and redecorated.

A mechanical fan for ventilation purposes had been installed in the bathroom, although at the date of inspection this had not been connected up.

The silicone seals around the bath/shower and sink were now adequate. The upper area of the stairwell landing had been repaired sufficient to bring it back to the repairing standard. The broken and smashed glass on the stairwell landing window had not been replaced although it had been covered over with plexi-glass. The hole in the stairwell landing roof had been repaired.

The stairwell cupboard door could now be opened and closed correctly.

No structural engineers report had been provided by the Landlord. The Landlord subsequently responded to the reinspection report to advise that he did not intend to get an engineers report as he was in the process of selling it and a home report would be exhibited at that stage. He also of the view that the repair to the stairwell window was unnecessary due to the plexi-glass being in place.

The Committee considered matters and in particular whether to determine that compliance with the RSEO had now been achieved.

The Committee was pleased to see that the Landlord had taken significant steps to carry out appropriate repair works and the Property was in a significantly improved state. However, as in previous instances, the Landlord appeared to think that it was for him to interpret and determine what aspects of the RSEO he wished to comply with. In relation to the smashed glass in the stairwell the RSEO did not given the option of placing plexi-glass over it. The RSEO specifically stated that the glass was to be replaced. The Landlord had never appealed any decision of the Committee and accordingly the terms of the RSEO were set in stone. The Committee was not of the view that the plexi-glass

repair was adequate. The Tenant in the Property was entitled to have a standard window with proper glass in place. The Landlord would require to complete this repair before the RSEO could be lifted.

The Committee had noted that the fan in the bathroom had not yet been connected up. The Landlord would require to provide evidence that this had been done before the RSEO could be lifted.

Lastly, the Landlord had elected not to obtain a structural engineers report in line with the Committee requirements. The Committee did note, however, that the Landlord intended to sell the Property and a Home Report would be forthcoming as a result. In the event that a satisfactory Home Report disclosing that there were no concerns regarding the structural condition of the Property, was made available to the Committee then the Committee may elect to dispense with the need for the structural engineers report. In the absence of such a satisfactory Home Report then the Committee would still require a structural engineer's report as originally stated in the original Determination before the RSEO could be lifted.

In summary, on the basis that the engineers report, mechanical ventilation in the bathroom and the stairwell window had not yet been adequately addressed the Committee was not in a position to discharge the RSEO.

Decision

5. The decision of the Committee was that the RSEO and Rent Relief Order should remain in place for the time being until full compliance had been achieved by the Landlord.
6. The decision of the Committee was unanimous.

Right of Appeal

7. **A Landlords 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

8. 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
Chairperson

..... Date..... 22/5/16