



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

Reference number:- PRHP/RP/15/0321

Re: Ground Floor flat at 20 Young Terrace, Springburn, Glasgow, G21 4LW, being the subjects registered in the Land Register of Scotland under Title Number: GLA60556 ("the Property")

The Parties:-

Ms Karen Gordon, residing at 20 Young Terrace, Springburn, Glasgow, G21 4LW ("the Tenant")

Mr Richard Brewis, residing at 68 Birchmead Avenue, Middlesex, HA5 2BW ("the Landlord")

NOTICE TO Mr Richard Brewis, residing at 68 Birchmead Avenue, Middlesex, HA5 2BW ("the Landlord")

Whereas in terms of their decision dated 25 February 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 wind and water tight and in all other respects reasonably fit for human habitation (all as required by Section 13 (1)(a) of the Act.

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 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) (i) To commission an appropriately qualified Building Contractor to investigate the nature and cause of the dampness found within the bedroom and bathroom of the Property and (ii) to identify relevant works required to eradicate the source of the dampness and all relevant works required to repair the affected areas and (iii) to instruct an appropriate contractor to carry out all such recommended relevant works

to eradicate the source of the dampness and all recommended works to repair any damage caused by the damp.

- (b) To carry out such reasonable works as are necessary to ensure that the Property is properly sealed against pest and vermin ingress and, in particular, to produce to the Committee an updated report from "Speedy Pest Control", or another appropriately qualified contractor, demonstrating that all recommendations in the report prepared by Speedy Pest Control dated 16 November 2015 have been carried out and that the rodent infestation has been eradicated. Thereafter to thoroughly clean all affected areas.

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.

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 Property at any time during which a RSEO has effect in relation to the Property. This is in terms of Section 28(5) of the Act.

In witness whereof these presents type written on this page and the preceding page only are executed by Andrew Cowan, chairperson of the Private Rented Housing Committee at Glasgow on # before this witness:-

Signed **A Cowan** Date 25/02/2016
Andrew Cowan, Chairperson

L McManus Witness
Laura McManus, Secretary, 7 West George Street, Glasgow, G2 1BA



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

Reference number:- PRHP/RP/15/0321

Re: Ground Floor flat at 20 Young Terrace, Springburn, Glasgow, G21 4LW, being the subjects registered in the Land Register of Scotland under Title Number: GLA60556 ("the Property")

The Parties:-

Ms Karen Gordon, residing at 20 Young Terrace, Springburn, Glasgow, G21 4LW ("the Tenant")

Mr Richard Brewis, residing at 68 Birchmead Avenue, Middlesex, HA5 2BW ("the Landlord")

Decision

The Private Rented Housing Committee ("the Committee"), having made such enquiries as it saw fit for the purpose 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 concerned and, taking account of the written evidence lodged by both the Landlord and the Tenant with the Committee, together with the evidence led by the Tenant at the hearing, determined that the Landlord has failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

The Committee consisted of

Mr Andrew Cowan – Chairperson

Ms Carol Jones – Surveyor Member

Background

1. The applicant is a joint-Tenant (along with Miss Sally Ann Matthews) of the Property at 20 Young Terrace, Springburn, Glasgow. The Landlord is the registered owner of the Property. The Landlord has an agent, Messrs 1-2 Let ("the Landlord's agent"), having a place of business at 104 Belgrove Street, Dennistoun, Glasgow, G31 1AA. The Landlord has engaged directly with the Private Rented Housing Panel in relation to this application and all correspondence has been copied to the Landlord directly.

2. By application dated 23 November 2015, the Tenant applied to the Private Rented Housing Panel for a determination as to whether the Landlord had failed to comply with the duties imposed by Section 14 (1)(b) of the Act.
3. The application by the Tenant stated that the Tenant considered that the Landlord had failed to comply with his duty to ensure that the property meets the repairing standard at all times during the tenancy (as required by Section 14 (1)(b) of the Act).
4. The Tenant has listed in her application a summary of how she considers the Landlord has failed to meet the repairing standard and has further stated details of the nature of the work which she considers requires to be completed by the Landlord to ensure that the Property meets the repairing standard.
5. A summary of the alleged breaches of the repairing standard are:-
 - (a) The wall between the bathroom and the bedroom of the property suffers from dampness and, as a consequence, there are fungi growing in the bedroom of the Property.
 - (b) The wall between the bedroom and the kitchen of the property suffers from dampness;
 - (c) Vermin are able to access the property through spaces in the floor of the property which are located under the bath and the cabinet which are situated in the bathroom of the property, and behind the kitchen units and the fridge in the kitchen of the property (outside wall); and
 - (d) The bathroom ceiling suffers from dampness.
6. The Committee served a notice of referral dated 15 December 2015 under Section 22(1) of the Act on the Landlord, the Landlord's agent and the Tenant.

7. In terms of the said notice of referral parties were advised that the Committee intended to inspect the property on 11 February 2016 and to thereafter hold a hearing in relation to the application, on the same date, at Wellington House, Wellington Street, Glasgow, G2 2XL.
8. By email dated 2 February 2016, the Landlord lodged written representations in response to the Tenant's application. He included with his email a number of emails which had passed between the Landlord and the Tenant, together with emails which had passed between the Landlord and the Landlord's agent.
9. The Committee proceeded with the inspection on 11 February 2016. The Committee attended at the property and carried out their visual inspection of the property. The Tenant and the co-Tenant were present during the inspection. The Landlord did not attend the inspection of the property.

The Inspection

10. At the inspection the Committee noted the following points:-
 - (a) The Committee tested levels of dampness on the wall situated between the bathroom and the bedroom of the Property. The Committee recorded significantly high levels of dampness on the lower part of the wall particularly in the part of the wall adjacent to the bath. In addition, the Committee noted that fungus is growing between the skirting board and the carpet in the bedroom of the Property. The Committee were not able to determine a conclusive cause of the dampness affecting this wall at that area.
 - (b) The Committee recorded significant dampness readings on a section of the wall between the bedroom and the kitchen of the Property. In particular, there was significant dampness at the section of that wall immediately adjacent to the door into the bedroom of the property. The Committee were not able to determine the cause of this significant dampness.
 - (c) The Committee noted that under the bath of the Property and the floor of the wash hand basin cabinet adjacent to the bath of the Property there were large gaps in the flooring of the Property. The Committee further noted that there was evidence of

rodent activity under the bath of the Property with a significant amount of rodent droppings and a strong smell of urine evident in this area. The Committee further noted that there were further gaps and holes in the floor, together with exposed stonework in the area behind the fridge in the kitchen of the Property. The Committee noted that rodent poison had been placed within this area.

- (d) The Committee noted that there was a patch of peeled paintwork on the bathroom ceiling of the Property which appeared to be related to dampness on the bathroom ceiling.

The Hearing

- 11. The Committee had advised both the Landlord and the Tenant that they intended to hold a hearing in relation to the Tenant's application following upon their inspection of the property at Wellington House, Welling Street, Glasgow. The Tenant and the co-Tenant attended the hearing and gave evidence to the Committee. The Landlord did not attend the hearing.

- 12. At the hearing the Committee discussed their findings from their own inspection of the Property with the Tenant and the co-Tenant:-
 - (a) the Committee noted that the Tenant and the co-Tenant were concerned regarding the dampness in the Property and, in particular, the dampness which had been identified on the wall between the bedroom and the bathroom of the Property and the wall between the bedroom and the kitchen of the Property. The Tenant explained that they regularly have to clean the walls of evidence of dampness and mould growth and that they do not believe that the Property is fit for human habitation as a consequence of the dampness within the Property.

 - (b) The Tenant explained that she has seen a rat within the Property. The Tenant believes that vermin are entering the Property through large gaps situated behind the fridge of the Property. The Tenant has also heard vermin scratching at areas beneath the bath of the Property. The Tenant is fearful of the vermin and that feels that the presence of vermin in the Property means that the Property is not suitable for human

habitation. The Tenant made reference to a report from a pest control company (the Speedy Pest Control) who attended and inspected the Property in November 2015. The Pest controllers had set traps and poison. The Pest Control Company had highlighted to the Tenant that they considered the vermin were entering the Property through exposed wall cavities behind the fridge unit of the Property and/or through a large hole under the wash hand basin in the bathroom of the Property. The Pest Control Company had recommended that these exposed holes and cavities were sealed. The Pest Control Company also recommended that the damaged and loose kick plates situated at the bottom of the kitchen units in the property should be replaced to further deny access to vermin.

- (c) With regards to the patch of dampness in the bathroom ceiling of the Property, the Tenant and co-Tenant explained that they had previously painted the bathroom ceiling, but that dampness had reappeared on the ceiling. The Tenant accepted that, as the bathroom was enclosed with no windows, and whilst there was an extraction unit within the bathroom, higher levels of condensation might be expected than in a bathroom which is capable of being ventilated through using windows etc.

Landlord Comments

13. By an email dated 2 February 2016, the Landlord lodged with the Committee a number of emails. He stated in his covering email that he intended to attend the hearing. He did not make an appearance at the hearing. The emails which the Landlord lodged with the Committee related, in part, to correspondence between the Landlord and his agent. The Committee took the view that issues which the Landlord raised with his agent were not of relevance to the question as to whether the Property met the repairing standard as at the date of the inspection. The Landlord also lodged copies of emails between himself and the Tenant. In these emails, the Landlord had *inter alia* suggested a number of methods in which the Tenant could deal with mould within the Property, and further submitted that he had paid for work to be carried out to the Property to address some of the issues which formed the basis of the Tenant's complaint within the application. The Committee are of the view that none of

the emails which the Landlord has produced provide any evidence to rebut the Tenant's claim that the Property does not currently meet the repairing standard for the reasons given in the application. Further, none of the emails produced by the Landlord are evidence of any particular exception to the Landlord's repairing duty as would be required if the Landlord were seeking to find upon Section 16 of the Act (Exception to landlord's repairing duty).

14. The Committee accordingly reached a decision based upon their own observations from the inspection of the Property and taking account of the oral evidence given by the Tenant and the co-Tenant and taking account of written information supplied by both the Tenant and the Landlord in terms of:-
 - (a) The Tenant's application (together with supporting documentation attached thereto); and
 - (b) The Landlord's written representations which he submitted to the Committee under cover of his email of 2 February 2016.

Decision

15. Having inspected the Property and having considered the evidence which had been provided in writing by both the Landlord and the Tenant and, having considered the oral evidence of the Tenant at the hearing, the Committee determined as follows:-
 - (a) From their inspection of the Property, the Committee had noted that the Wall between the bathroom and the bedroom of the Property and the wall between the bedroom and the kitchen of the Property both suffer from significant dampness. The dampness is having an effect upon the habitability of the Property. The Committee accordingly determined that the Property does not meet the repairing standard and the Property is not wind and water tight and in all other respects reasonably fit for human habitation all as required by Section 13(1)(a) of the Act.
 - (b) Based upon their own inspection of the Property and the evidence supplied by the Tenant, the Committee are satisfied that the Property continues to be infested by

vermin. In the circumstances, the Committee are satisfied that the Property is not reasonably fit for human habitation all as required by Section 13(1)(a) of the Act.

(c) The Committee noted from their inspection that the ceiling of the bathroom has a patch of dampness caused by condensation. The Committee considered that this dampness whilst undesirable did not affect the habitability of the Property and what could reasonably be expected in an enclosed bathroom of the type and situation as located within the Property. The Committee found no failure of the repairing standard in relation to this matter.

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

17. The decision of the Committee was unanimous.

Right of Appeal

18. 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

19. 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.

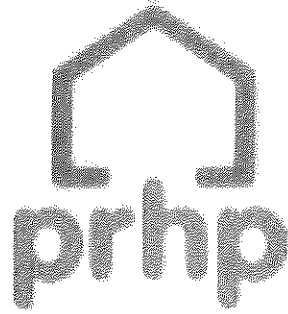

A Cowan

Signed
Andrew Cowan, Chairperson

.....
Date 25/02/2016

L McManus

.....Witness
Laura McManus, Secretary, 7 West George Street, Glasgow, G2 1BA

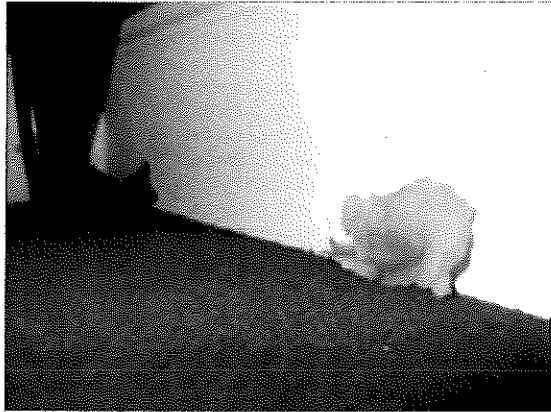


Schedule of photographs taken during the inspection of 20 Young Terrace, Glasgow
G21 4LW
by the Private Rented Housing Committee on the 11 February 2016.

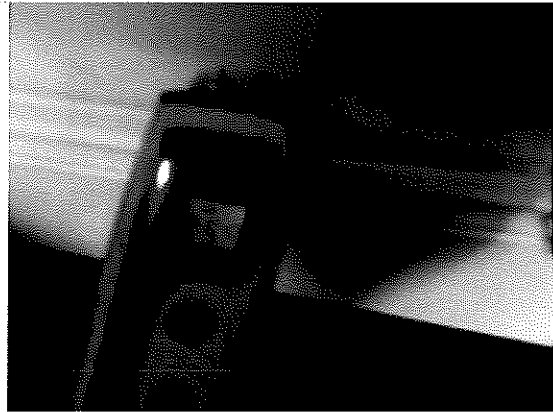
Reference Number : PRHP/RP/15/0321



External view - Front elevation of property



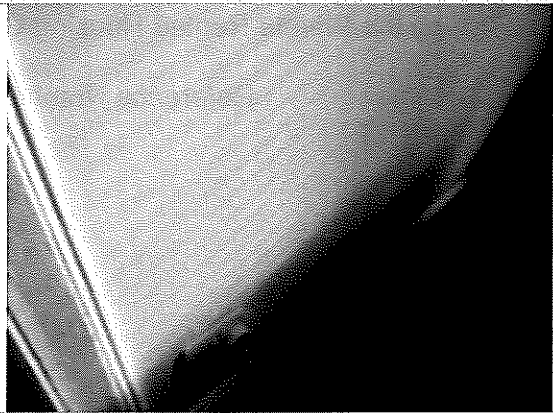
Bedroom - fungus growing at skirting board on wall adjoining bathroom



Bedroom - high damp meter readings close to fungus



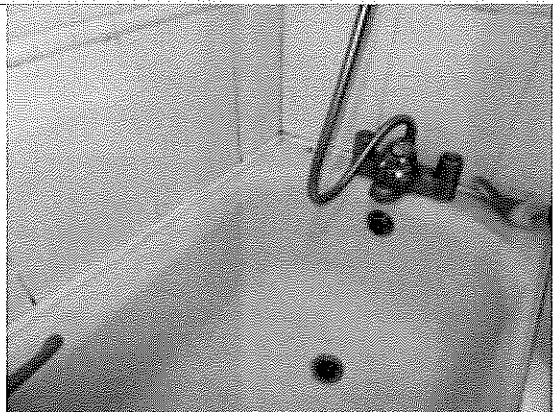
Bedroom



Bedroom - wall adjoining kitchen



Bathroom - space under bath - evidence of rodent activity



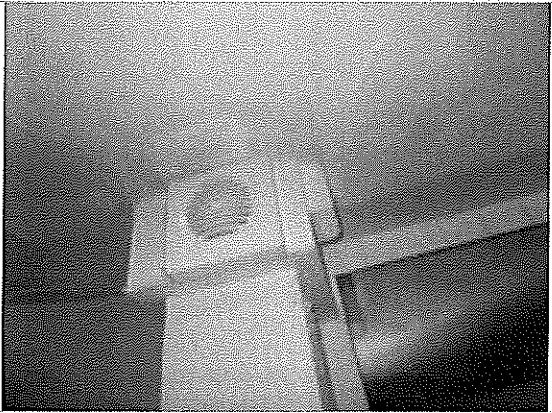
Bath



Bathroom - cabinet under wash hand basin - hole in floor



Bathroom ceiling



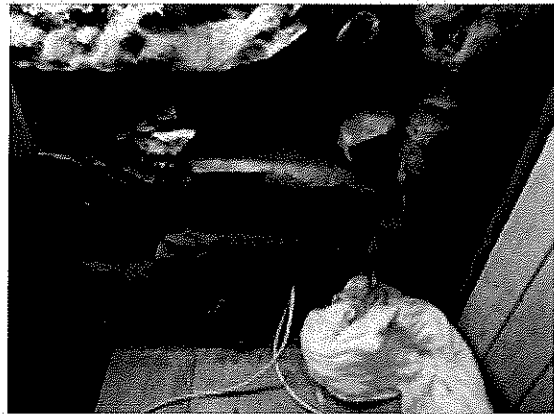
Bathroom - extractor fan



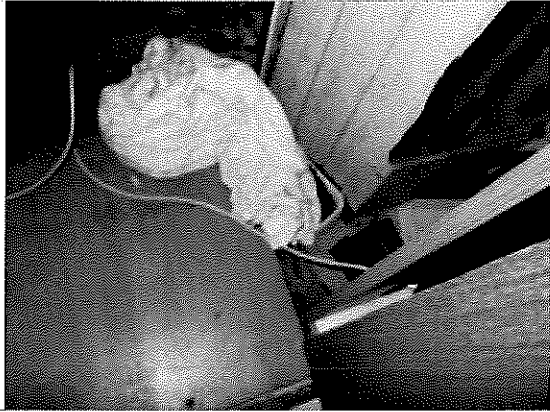
Kitchen



Kitchen - base of cabinet/kick plate



Kitchen rear external wall behind fridge



Kitchen - area behind fridge - rodent poison



Kitchen - Wall mounted CO alarm



Front door/entrance at ground level



Front elevation - underfloor vent at ground level