



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

PRHP Ref: PRHP/RP/16/0243

Re: Property at 11 Torburn Avenue, Giffnock, G46 7QZ (“the Property”)

Title No: REN 11002

The Parties:-

Rabbi Mordecai Bamburger 15 Belmont Drive, Giffnock; 38 Yisoh Bronco, Jerusalem, 95341, Israel; Glasgow Kolloel, 86 Hillside Road, London (“the Landlord”)

Kelly Anne Murray, residing formerly at 11 Torburn Avenue, Giffnock and now c/o 9 Windmill Place, Newlands, Glasgow, (“the Tenant”)

NOTICE TO Rabbi Mordecai Bamburger (“the Landlord”)

Whereas in terms of their decision dated 30 September 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 :-

- (a) The house is wind and watertight and in all other respects reasonably fit for human habitation;
- (b) The structure and exterior of the house (including drains, gutters and external pipes) are in a reasonable state of repair in and proper working order;
- (c) 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;
- (d) The house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire;
- (e) The house has satisfactory provision for giving warning if carbon monoxide is present in a concentration which 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 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 install interlinked hard wired smoke and heat detectors in the property
2. To install an appropriately positioned carbon monoxide detector at the property
3. To instruct a suitably qualified Roof Contractor to replace the damaged, slipped and missing tiles from the roof and repair or replace the roof of the rear extension

4. To investigate the cause of water ingress in the porch and carry out such repairs as are necessary to rectify same. Thereafter to repair the damaged wall in the porch.
5. To repair or replace the guttering and timber fascia on the porch roof and install a downpipe on the exterior wall of the porch.
6. To repair or replace the damaged front door to ensure that it is wind and water-tight and in proper working order.
7. To repair or replace the light fittings in the porch, kitchen, downstairs toilet, small bedroom and bathroom
8. To instruct a suitably qualified contractor to investigate the cause of dampness and water damage to walls and ceilings in the porch, living room, kitchen, dining room, downstairs toilet and bathrooms and carry out such repairs as are required to rectify same. Thereafter to re-plaster and decorate the affected walls and ceilings.
9. Repair or replace all damaged or missing kitchen units and worktops, the flap over the gas meter and the pipebox cover in the cupboard in the kitchen where the pipes are located.
10. To replace the damaged floor tiles in the kitchen and downstairs bedroom and the damaged skirting in the dining room and small bedroom
11. To repair damaged plaster on the walls in the downstairs toilet, large bedroom and on the stairs and thereafter re-decorate the affected walls
12. To repair the bannister and ensure that it is securely fixed to the wall
13. To replace the damaged window sills at the top of the stairs and in the large bedroom
14. To replace missing/damaged skirtings and floor boards in the upstairs bedrooms
15. To repair the damaged and blocked toilet in the bathroom and ensure that it is in proper working order
16. To investigate the cause of the leak from the bathroom and carry out such repairs as are necessary to stop any water ingress to other rooms in the property
17. To repair or replace the damaged loft hatch door
18. To instruct a Gas Safe registered engineer to carry out an inspection of the entire gas installation and appliances at the property and to carry out all works recommended by said engineer to ensure that the installation and appliances are safe, functional and in proper working order. Thereafter to obtain and exhibit to the Committee a gas safety certificate from said engineer

19. To instruct a suitably qualified and SELECT or NICEIC register electrician to carry out a certified electrical condition check on the entire electrical installation of the property. Thereafter to carry out any works recommended by said an electrician and obtain and exhibit a copy of the Electrical Installation Condition Report (EICR) to the Committee

The Private Rented Housing Committee orders that the works specified in this Order must be carried out and completed within the period of eight 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 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 type written on this and the preceding page are executed by Josephine Bonnar, solicitor, Chairperson of the Private Rented Housing Committee at Motherwell on 30 September 2016 before this witness:-

J Bonnar Chairperson

G Bonnar Witness

Gerard Bonnar _____ Name in full

BUCHANAN HOUSE Address

58 PORT DUNDAS ROAD

GLASGOW

Solicitor _____ Occupation



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

PRHP Ref: RP/16/0243

Re: Property at 11 Torburn Avenue, Giffnock, G46 7QZ (“the Property”)

Title No: REN 11002

The Parties:-

Kelly Anne Murray c/o 9 Windhall Place (“the Tenant”)

Rabbi Mordecai Bamberger 15 Belmont Drive, Giffnock; Rabbi Mordecai Bamberger 38 Yisoh Bronco, Jerusalem, 95341, Israel; Rabbi Mordecai Bamberger, Glasgow Kollel, 86 Hillside Road, London (the Landlord(s))”

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) of the Housing (Scotland) Act 2006 (“the Act”) in relation to the property determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

The Committee comprised:-

Mrs Josephine Bonnar, Chairperson

Mr Kingsley Bruce, Surveyor Member

Background

1. By application received on 11 July 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 their duty to ensure that the house meets the repairing standard and in particular that the Landlord had failed to ensure that:- the house is wind and watertight and in all other respects reasonably fit for human habitation; the structure and exterior of the house (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order; any fixtures; 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; the house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire, and the house has satisfactory provision for giving warning if carbon monoxide is present in a concentration that is hazardous to health.

Specifically the Tenant complained of the following:-

- (i) No smoke detector,
- (ii) No carbon monoxide detector,
- (iii) Damaged roof (house and rear extension),
- (iv) Defective and damaged external doors (front and back),
- (v) Holes in internal walls (porch, kitchen, downstairs toilet, wardrobe in bedroom),
- (vi) Damaged guttering, missing downpipe and damaged porch trim,
- (vii) Missing internal doors (porch, living room, kitchen, fitted wardrobe in bedroom),
- (viii) Broken light fittings (porch, kitchen, downstairs toilet, small bedroom, bathroom)
- (ix) Broken windows (porch, living room, downstairs bedroom, top of stairs, large bedroom)
- (x) Loose wires and loose/damaged sockets (porch, living room, kitchen, downstairs toilet, stairs, small bedroom)
- (xi) Dampness/water damage to walls and ceilings (living room, kitchen, dining room, toilet, downstairs bedroom, large bedroom)
- (xii) Damaged/defective kitchen units
- (xiii) Insecure shelf in living room
- (xiv) Damaged/defective radiators (kitchen, dining room, downstairs bedroom, bedrooms and bathroom)
- (xv) Cracked floor tiles (kitchen, downstairs bedroom)
- (xvi) Damaged skirting boards
- (xvii) Loose/ damaged plaster (downstairs toilet, stairs, large bedroom)
- (xviii) Defective boiler
- (xix) Damaged bannister
- (xx) Damaged window sills (stairs, large bedroom)
- (xxi) Missing floor boards (upstairs bedrooms)
- (xxii) Defective shower
- (xxiii) Blocked and defective toilet (bathroom)
- (xxiv) Leak from bathroom
- (xxv) Defective loft hatch
- (xxvi) Silicon in windows in living room and upstairs bedrooms requiring to be replaced
- (xxvii) Plug socket above sink in kitchen in unsuitable location and wall above kitchen units in kitchen appears insecure. Crack in the wall between kitchen and dining room
- (xxviii) Corroded pipe in downstairs toilet
- (xxix) Bathroom floor damaged and wash hand basin insecure.

3. The Private Rented Housing Panel served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon both the Landlord and the Tenants on 8 August 2016.
4. Following service of the Notice of Referral the Committee issued a Notice of Direction on 18 August 2016 requiring the Landlord to obtain and exhibit a certified electrical condition report and gas safety record in relation to the property by 9 September 2016. Neither document was produced by the Landlord
5. Prior to the inspection and hearing the Landlord made written representations to the Committee dated 6 September 2016. These stated that the Tenant had been issued with a Notice to Quit, that the tenant was not in occupation, that most of the damage had been caused by the tenant and her son including smashed windows, missing and broken doors, broken sockets and holes in walls. He further indicated that re-wiring and decoration was required. The Application form submitted by the Tenant included a covering letter from her representative which indicated that she had temporarily moved out of the property prior to submission of the application because of the condition of same but that the tenancy was continuing and rent by way of housing benefit was in payment. A letter from East Renfrewshire Council Benefits team was also provided which confirmed the position. The Tenant made no further representations in advance of the hearing but confirmed verbally by way of telephone call to the PRHP that she had received a Notice to Quit.
6. The Private Rented Housing Committee inspected the Property on the morning of 14 September 2016. The Landlord's new agent Neil Livingstone of Douglas Dixon Management was present. Neither the Landlord nor the Tenant were present during the inspection.
7. Following the inspection of the property the Private Rented Housing Committee held a hearing at Wellington House, 134-136 Wellington Street, Glasgow. Neither party nor their representatives attended the hearing.

The Inspection

8. At the time of the inspection the weather was dry and overcast. The Committee were able to inspect the whole property, a mid-terraced dwelling house in a residential area comprising porch, hallway, living room, kitchen, dining room, bedroom and downstairs toilet on the ground floor and 2 bedrooms and a bathroom upstairs. The property has an extension to the rear and the downstairs bedroom, toilet and dining room are located within same. The property is in a poor state of repair, internally and externally. It is largely unfurnished with no evidence of current occupation. During the inspection the

Committee noted the following (using the same numbering as in paragraph 2 above) : -

- (i) There are no smoke detectors in the property;
- (ii) There is no Carbon Monoxide Detector in the property;
- (iii) There are slipped, damaged and missing tiles on the roof of the house. The roof of the rear extension is in a state of disrepair;
- (iv) The front door is damaged. The lower hinges are not secure and the letterbox cover is missing;
- (v) There are holes in the wall of the porch on either side of the front door which appear to have been caused by water ingress. There is a hole in the wall between the kitchen and dining room which and 2 holes in the fitted wardrobe door in the small bedroom, both of which appear to be impact related damage;
- (vi) The guttering on the roof of the house is corroded but there were no indications of significant defect. The guttering on the porch does not run the full length of the porch roof, stopping short on each side and the downpipe was missing. There are gaps in the timber cladding on the porch roof and some of it is loose/deteriorated;
- (vii) There are no internal doors between the porch and hall, the hall and living room, the kitchen and dining room and no doors on the wardrobe in the large bedroom;
- (viii) The light fitting in the porch is broken and the plastic part of same has melted, the fluorescent light in the kitchen is broken, the light switch in the kitchen has tape across it and is hanging from the wall, the light fitting in the bathroom is insecure, the light pendant fitting in the small bedroom is missing leaving only the ceiling rose;
- (ix) The glass is missing from the window between the porch and hall leaving only shards of glass attached to the frame. Water has got into the cavity above the living room window causing the insulation to dissolve and leak out. The downstairs bedroom window pane is broken. The inner pane of the window at the top of the stairs is missing. The rubber strips between the window frame and pane in the small bedroom window are hanging loose. The handle of the window in the small bedroom, though stiff is not faulty;
- (x) There are loose telephone wires in the porch, living room, downstairs toilet and on the stairs. There are loose and damaged sockets in the living room (3), kitchen (4) and small bedroom (1). The Committee was unable to check the sockets behind the white goods in the kitchen;
- (xi) The wall next to the living room radiator is damp and the supply pipe to the radiator has been damaged. There are damp stains on the ceiling in the living room, dining room, toilet, kitchen and downstairs bedroom indicative of water ingress or leaks from above. The wall behind the downstairs

- toilet is damp and the skirting is decayed. There is dampness on the ceiling of the large bedroom;
- (xii) In the kitchen there are a number of damaged kitchen units and worktops, the flap over the gas meter catches on cabinets preventing access to same and the cover in a cupboard where pipes are located is hanging open and has nails protruding from same;
 - (xiii) The pelmet (shelf) in the living room is not defective
 - (xiv) The kitchen radiator is not secure to the wall. There are control knobs missing from radiators in the dining room, downstairs bedroom, bathroom and upstairs bedrooms. The Committee were unable to check if any of the radiators are in working order
 - (xv) There are damaged floor tiles in the kitchen and between the hall and the downstairs bedroom;
 - (xvi) There is a section of loose skirting in the dining room. The skirting board and a section of the wall in the small bedroom which backs onto the bathroom has rotted away, indicative of a leak from the bath or shower
 - (xvii) There are sections of missing/damaged plaster in the walls in the downstairs toilet, large bedroom and on the stairs
 - (xviii) The housing is missing from the boiler and it is in a state of disrepair. The Committee were unable to establish whether it is in working order
 - (xix) The bannister is not securely attached to the wall at the top of the stairs
 - (xx) A section of the window sill is missing at the window at the top of the stairs and in the large bedroom
 - (xxi) There are floorboards missing in both upstairs bedrooms
 - (xxii) There is a shower but the Committee were unable to establish if it is in working order. The bath is full of water and may be blocked.
 - (xxiii) The toilet is blocked with newspaper and human waste
 - (xxiv) There are cracks between the tiles in the bathroom next to the bath and shower
 - (xxv) The loft hatch is hanging down into the small bedroom and cannot be secured shut as the catch is broken
 - (xxvi) There was no evidence of defects in the windows
 - (xxvii) The power outlet above the sink is in an unsuitable location. The wall above the units appeared undamaged and there was no crack noted in the wall between kitchen and dining room
 - (xxviii) A copper pipe in the toilet has flaking paint but is otherwise undamaged
 - (xxix) The floor and wash hand basin in the bathroom are undamaged

The Hearing

9. Neither party attended the hearing nor were they represented at same. Accordingly the Committee did not hear evidence regarding the matter.

Findings in Fact

10. The property is a mid-terraced dwelling house in a residential area. The property is generally in a poor state of repair both internally and externally. The accommodation comprises a porch, hallway, living room, kitchen, dining room, toilet and bedroom on the ground floor and 2 bedrooms and bathroom upstairs.
11. The tenancy started in 2011. The Tenant is not currently living in the property which is for the most part unfurnished. The Landlord served a notice to quit on or about 6 September 2016.
12. The Tenant notified the Landlord of a number of repairing standard issues affecting the property. Following notification of same the Landlord failed to take action to carry out necessary repairs.
13. There are no smoke or Carbon Monoxide detectors in the property. The roof, porch guttering, wooden roof trim and downpipe are defective. The front door is damaged. Some internal walls and ceilings are water damaged and damp. Some light fittings, sockets, radiators and the boiler are damaged and defective. Some windows are damaged or defective. Kitchen units, some floor tiles, skirting boards, plaster, the bannister, some window sills and the loft hatch are damaged. There are holes in some internal walls and missing panes of glass from some windows. The toilet and bath are blocked and bathroom tiles are damaged. There are loose wires throughout the property.

Reason for decision

14. The Committee considered the issues of disrepair set out in the Application and noted at the inspection and hearing.
15. The Committee did not hear evidence from either party. No information was available about the condition of the property when the Tenant took entry to same or whether there had been inspections by the landlord or his agent since that date. Although the Committee noted that intimation of the repair issues had been made prior to the Tenants application being submitted no information as to the length of time these issues had been outstanding was provided. Accordingly the Committee based its decision on the inspection, the Tenants application and the written

representations from the landlord. The Tenant had offered no explanation for the cause of any damage or defects with the exception of the window in the downstairs bedroom which was (according to the application) caused by a family member. The Landlord stated that almost all the repairing issues were due to the actions of the tenant or her son. He further advised that the electricity at the property is currently off and that this in turn means that the gas appliances cannot be checked. The Committee was unable to check whether gas or electrical appliances were in working order and heard no evidence regarding either. The Committee therefore assessed these issues on the appearance and condition of the appliances at inspection. Lastly, the Landlord indicated that as the tenant had been issued with a notice to quit and was not in occupation of the property that no valid application was before the PRHP. The Committee had no hesitation in rejecting this claim on the basis that the Landlord did not intimate this claim until 6 September, no evidence was produced in support of same and it contradicted an earlier statement in the same document that the tenancy would come to an end in 2 months' time as a result of a notice to quit. Furthermore, the tenant had produced evidence at the time of submitting the application that her tenancy was continuing.

16. The Committee concluded that the Landlord requires to instruct a certified electrical condition check on the entire electrical installations of the property by a suitably qualified and registered SELECT or NICEIC contractor. Thereafter to carry out any works recommended by said contractor, particularly in relation to light fittings, wiring and sockets. Thereafter to exhibit a copy of the report to the Committee. In addition the Committee concluded that the landlord requires to instruct a gas safe registered engineer to inspect the property, and to carry out any repairs recommended by said engineer particularly in relation to the boiler and radiators. Thereafter to obtain and exhibit to the Committee a current gas safety certificate from said engineer.
17. The Committee concluded that some of the repairing issues evident from the inspection may have resulted from a failure by the tenant to comply with the duty use the house in a proper manner in terms of Section 16(1)(a) of the Act. The Tenant had indicated in her application that the smashed window in the downstairs bedroom was caused by a family member. The Committee noted similar damage to the windows at the top of the stairs and the window between porch and hall and concluded that these also seemed to be the result of impact related damage. Furthermore the holes in walls in the kitchen, stairs and bedroom wardrobe also appeared to be impact related damage likely to have occurred since the tenancy commenced. The Committee therefore concluded that although these matters would otherwise amount to a breach of the repairing

standard the Landlord is not required to carry out these repairs by virtue of Section 16(1)(a) of the Act.

18. The Committee were not satisfied that all of the repairing standards issues raised had been established. The Tenant had complained of missing internal doors (item vii). Although a number of internal doors were not present at the inspection there was no evidence that these doors had been part of the property during the tenancy and the absence of same did not of itself amount to a breach of the repairing standard. The Tenant had indicated that the external doors had no locks (item iv) but relatively new locks in proper working order were noted at the inspection. The Tenant had complained of windows requiring silicon replaced (item xxvi) but at inspection this defect appeared to be superficial and not detrimental to the working of the windows. The Committee noted the location of a power outlet above the sink in the kitchen which would not appear to be compliant it is assumed would be dealt with in terms of the required Electrical Inspection condition report. A vertical crack in the wall at the entrance to the dining-room was not considered significant (item xxvii). The pipe in the toilet did not appear to be corroded although the paint is flaking (item xxix). Neither the floor or wash hand basin in the bathroom appear to be defective or damaged. The shelf or pelmet in the living room is not damaged (item xiii) The Committee therefore determined to make no order in relation to these issues.

19. The Committee concluded that a repairing standard enforcement order should be made in relation to the following – (i) lack of smoke detectors, (ii) lack of CO detector, (iii) repairs to roof, (iv) damaged front door, (v) hole in the wall inside the porch, (vi) defective guttering, timber cladding and downpipe on porch, (ix) Insulation leaking from the cavity in the living room window and loose rubber seals in the bedroom of the small bedroom (xi) dampness and water damage to walls and ceilings, (xii) damaged kitchen units, (xv) damaged floor tiles, (xvi) damaged/decayed skirting boards, ((xvii) loose and damaged plaster, (xix) damaged bannister, (xx) damaged window sills, (xxi) decayed/missing floor boards, (xxii) to (xxiv) shower, toilet and leak from bathroom, (xxv) defective loft hatch, (viii) and (x) light fittings and loose/damaged wires and sockets, and (xiv), and(xviii) radiators and boiler.

Decision

20. The Committee accordingly determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.

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

22. The decision of the Committee was unanimous

Right of Appeal

23. 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

24. 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..... **J Bonnar** Date 30 September 2016
Chairperson































