



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

prhp Ref: PRHP/RP/14/0141

Re: 26 Woodburn Terrace, St Andrews, Fife, KY16 8BA ("the Property")

The Parties:-

MISS MORA SUMNER-WICHMANN formerly residing at 26 Woodburn Terrace, St Andrews, Fife, KY16 8BA ("the Tenant")

ALISTAIR GEORGE DAWSON and DR SUSAN DAWSON, Spouses residing together at 10 Berry Place, St Andrews, Fife ("the Landlords")

Decision

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

Background

1. By application dated 5 June 2014 the Tenant applied to the Private Rented Housing Panel for a determination of whether the Landlords 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 Landlords had failed to comply with his duty to ensure that the house meets the repairing standard and in particular that the Landlords had 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;
 - (b) Any fixtures, fittings and appliances provided by the Landlords under the tenancy are in a reasonable state of repair and in proper working order;
 - (c) The Property has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.
3. By letter dated 27 August 2014 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 Landlords and the Tenant.

5. Following service of the Notice of Referral the Tenant made no further material written representations to the Committee. The Landlords by email dated 22 August 2014 made written representations to the Committee.
6. The Private Rented Housing Committee comprising Mr E K Miller, Chairman and Legal Member; Mr D Godfrey, Surveyor Member; and Mr D Hughes-Hallett inspected the Property on the morning of 21 November 2014. The Tenant was not present, the tenancy having been brought to an end. Mr Dawson of the Landlords was present during the inspection.
7. Following the inspection of the Property, the Private Rented Housing Committee held a Hearing at St Andrews Town Hall, Queen's Gardens, St Andrews, Fife. The Tenant was not present. Mr Dawson of the Landlords was present. He represented himself.
8. The Tenant submitted by way of her original application, that there were several problems in the Property. She alleged that there were missing lightshades; there was damaged paintwork in the kitchen; the electric lights within the living room did not work; the shower tray leaked; the bathroom window did not open; there was faulty wiring; there was a door handle missing on the living room cupboard; and the shed and greenhouse were damaged and leaking.
9. The Landlords submitted that they had had good relations with the Tenant. They had indicated to her that they required the Property back as they intended to put their son in it instead. They had provided a reference to the Tenant for a new Property and had thought they were on good terms with her. However, once it was clear to the Tenant that she would require to leave they felt she had been vindictive towards them and had raised a number of spurious claims. Mr Dawson submitted that they had no issue with maintaining the Property to the appropriate standard. When the Tenant had complained about various matters they had carried out works. The Landlords had submitted a gas safety certificate in relation to the Property and during the course of the inspection had pointed out various works that had been carried out to address the Tenant's concerns. The Landlords pointed out that the date of some of the electrician's invoices for works pre-dated the Tenant's complaints. The Landlords accepted that there was some damp penetrating from the shower room through to the kitchen wall. The Landlords submitted that they were monitoring the position in relation to this but accepted that some works were likely to be required.

Summary of the issues

10. The issues to be determined are:-
 - (1) Whether there were missing lightshades within the Property.
 - (2) Whether the electric lights in the living room worked and whether there was faulty wiring in the Property.
 - (3) Whether the shower tray was leaking.
 - (4) Whether the paintwork in the kitchen was damaged adjacent to the shower area.
 - (5) Whether the bathroom window opened.
 - (6) Whether there was a door handle missing on the living room cupboard.
 - (7) Whether the shed and greenhouse were damaged/leaking.

Findings of fact

11. The Committee finds the following facts to be established:-

- There was a missing lightshade in both the lounge and main bedroom. These would both require to be replaced.
- Whilst the shower tray did not appear to be leaking there was water penetrating from the shower area through to the kitchen wall. The kitchen wall was damp and did not meet the repairing standard.
- The Committee could not determine whether the wiring was in proper working order or the electric lights in the living room were in proper working order. An electrical installation condition report would be required.
- Whilst there was a handle missing on the living room cupboard it was perfectly operational and met the repairing standard.
- The bathroom window had been repaired and opened properly.
- The shed and greenhouse were in poor condition. The shed would require to be made wind and watertight. In relation to the greenhouse, whilst this was damaged, the Landlords could elect to either repair it or demolish it.

Reasons for the decision

12. The Committee based its decision primarily on the evidence obtained during the course of the inspection. The Committee inspected the various lights within the Property. There was a missing lightshade and exposed cabling on a light in the lounge and a missing shade in the bedroom. These would both require to be replaced.

The Committee were unable to test all the electric lights in the living room as a number did not have bulbs. The Committee was unable to determine whether the Tenant's allegation that there was faulty wiring was correct or not. To err on the side of caution and to ensure that the correct safety standards were being met the Committee would require the production of an electrical installation condition report from a suitably qualified electrician confirming that there were no items categorised as C1 or C2.

The shower itself appeared to be in proper working order and there did not appear to be any sign of any leaks. However it was apparent that water was penetrating from the shower somewhere and causing damage to the kitchen wall. This had caused the paint to bubble and the plasterboard to become damaged. High moisture readings were obtained during the course of the inspection on the kitchen wall adjacent to the shower. Whilst it was for the Landlord to determine the best method to assess and carry out the required works the Committee was of the view that it may be the pipework sitting in the partition between the bathroom and kitchen walls that was leaking. Mr Dawson had indicated that he may remove the shower to investigate. Whilst it is for the Landlords to carry out his own investigation works the Committee would have thought the more prudent course of action was to investigate from the kitchen side. If there was a leak in the internal pipework then this could be repaired without damaging the shower area.

The bathroom window was in proper working order and met the repairing standard and no further action would be required.

The Committee inspected the living room cupboard. This comprised of two opening doors. There was a handle on one door and a handle missing on the other. It was perfectly easy to open both doors regardless of the missing handle and the Committee accordingly viewed this as a *de minimis* issue and there was no breach of the repairing standard.

The Committee inspected the shed and greenhouse. The shed was in reasonable condition but the roof required attention to render it wind and watertight. The Landlords would require to carry out appropriate works to make it wind and watertight. The greenhouse was in poorer condition. Mr Dawson indicated during the course of the

hearing that he and his wife had different views on how to proceed with it. The Committee were of the view that it would be perfectly competent for the Landlords either to demolish the greenhouse in its entirety or repair it. The Committee were happy to leave this decision to the Landlords to resolve amongst themselves.

The Committee considered how long the Landlords would require to carry out the necessary works and determined that 2 months would be an appropriate period.

Decision

- 13. The Committee accordingly determined that the Landlords had failed to comply with the duty imposed by Section 14 (1)(b) of the Act.
- 14. The Committee proceeded to make a Repairing Standard Enforcement Order as required by section 24(1).
- 15. The decision of the Committee was unanimous.

Right of Appeal

- 16. **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

- 17. 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 ... **Ewan Miller** Date..... *10/12/19*

Chairperson



Repairing Standard Enforcement Order
Ordered by the Private Rented Housing Committee

prhp Ref: PRHP/RP/14/0141

Re: 26 Woodburn Terrace, St Andrews, Fife, KY16 8BA ("the Property")

Title No: FFE15537

The Parties:-

ALISTAIR GEORGE DAWSON and DR SUSAN DAWSON, Spouses residing together at 10 Berry Place, St Andrews, Fife ("the Landlords")

MISS MORA SUMNER-WICHMANN formerly residing at 26 Woodburn Terrace, St Andrews, Fife, KY16 8BA ("the Tenant")

NOTICE TO ALISTAIR GEORGE DAWSON and DR SUSAN DAWSON, ("the Landlord")

Whereas in terms of their decision dated *10th January 2014*, 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:-

- (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;
- (b) Any fixtures, fittings and appliances provided by the Landlords 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:-

- (a) replace the missing lightshades in the living room and main bedroom.
- (b) To provide a clear electrical installation condition report from a suitably qualified electrician showing no items requiring attention marked C1 or C2 on the said report.
- (c) To carry out such works of repair or replacement to the kitchen wall and to locate and repair the source of water penetration to the area. The Landlords will require to make good the said wall upon completion of the works and to redecorate as appropriate.
- (d) To repair the shed roof sufficient to render it properly wind and watertight.
- (e) To demolish or repair the greenhouse as the Landlords so elects.

The Private Rented Housing Committee order that the works specified in this Order must be carried out and completed within the period of 2 months 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 Ewan Kenneth Miller, Solicitor, Whitehall House, 33 Yeaman Shore, Dundee, DD1 4BJ, Chairperson of the Private Rented Housing Committee at Dundee on _____ before this witness:-

_____ witness

Ewan Miller
_____ Chairman

Lindsay Johnston
Secretary
Thorntons Law LLP
Whitehall House
33 Yeaman Shore
Dundee
DD1 4BJ