



REPAIRING STANDARD ENFORCEMENT ORDER
Ordered by the Private Rented Housing Committee

RE: Property at 113 Oscar Road, Aberdeen AB11 8EL as more particularly described in Land Certificate Title Number KNC11603 (hereinafter referred to as "the House")

The Parties:

Gordon Rae, 113 Oscar Road, Torry, Aberdeen AB11 8EL (hereinafter "the Tenant")

William McKay Rae and Elaine Rae, 34 Sanday Road, Aberdeen AB15 6DT (hereinafter "the Landlord")

PRHP REFERENCE PRHP/RP/14/0214

NOTICE TO WILLIAM MCKAY RAE and ELAINE RAE

WHEREAS in terms of their decision dated 14 January 2015 the Committee determined that the Landlord has failed to comply with the duty imposed by section 14(1)(b) of the Housing (Scotland) Act 2006 and in particular that the Landlord has failed to ensure that the House meets the repairing standard in that:

- "(a) the house is wind and water tight 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 and in 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) any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order,*
- (e) any furnishings provided by the landlord under the tenancy are capable of being used safely for the purpose for which they are designed,*
- (f) the house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire."*

The Committee now requires the landlord to carry out such work as is necessary for the purposes of ensuring that the House 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 Committee requires the Landlord:

- 1 To repair or replace the central heating boiler and to provide to the office of the PRHP a copy of a current landlord's gas safety certificate issued by a Gas Safe registered engineer;
- 2 To provide to the office of the PRHP an electrical safety certificate issued by a qualified electrician which confirms that the electrical installations in the House are in safe condition;
- 3 To remove the garden decking and sheds and to replace the sheds with a garden outbuilding which is in reasonable condition.
- 4 To install mains powered smoke and heat detectors which comply with current legislative requirements.

The Committee order that the works specified in this Order must be carried out and completed within 42 days from the date of service of this Notice.

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 the decision.

Where such an appeal is made, the effect of the decision and 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 signed by John Miller McHugh, Chairperson of the Private Rented Housing Committee at Edinburgh on the Fourteenth day of January Two Thousand and Fifteen in the presence of the undernoted witness:

Chairperson

John McHugh

Witness **Gillian McHugh**

Witness Address

3 RANTON ST, EDINBURGH



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**

In connection with

113 Oscar Road, Torry, Aberdeen AB11 8EL (hereinafter referred to as “the House”)

Gordon Rae, 113 Oscar Road, Torry, Aberdeen AB11 8EL (hereinafter referred to as “the Tenant”)

William McKay Rae and Elaine Rae, 34 Sanday Road, Aberdeen AB15 6DT (hereinafter referred to as “the Landlord”)

PRHP REFERENCE PRHP/RP/14/0214

DECISION

The Committee, having made such enquiries as are 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 (hereinafter “the Act”) in relation to the House, taking account of the evidence led by the Landlord at the hearing and taking account of the written documentation attached to the application and submitted by the parties, determined that the Landlord had failed to comply with the duty imposed by section 14(1)(b) of the Act.

Background

By application dated 29 August 2014 (hereinafter “the Application”), the Tenant applied to the Private Rented Housing Panel (hereinafter “the PRHP”) for a determination of whether the Landlord had failed to comply with the duties imposed by section 14(1)(b) of the Act.

The Application stated that the Tenant considered that the Landlord had failed to comply with the duty to ensure that the House meets the repairing standard and in particular that the Landlord had failed to ensure compliance with the following paragraphs of section 13(1) of the Act:

- “(a) the house is wind and water tight 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 and in 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) any fixtures, fittings and appliances provided by the landlord under the tenancy are in a reasonable state of repair and in proper working order,*
- (e) any furnishings provided by the landlord under the tenancy are capable of being used safely for the purpose for which they are designed,*
- (f) the house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.”*

The Tenant complained of the following defects in the House: the boiler was not safe; the absence of smoke and heat detection measures; unsafe electrics; leaking gutters; rotten garden decking and sheds; slippery paths; the toilet cistern refilling constantly; a problem with the shower door and a stiff door lock.

By letter of 1 October 2014, the President of the PRHP intimated a decision to refer the application under section 23(1) of the Act to a Private Rented Housing Committee (hereinafter referred to as “the Committee”).

The Committee comprised the following members:

John McHugh, Chairperson
John Wolstencroft, Housing Member
David Godfrey, Surveyor Member

The Committee served Notice of Referral in terms of Paragraph 1 of Schedule 2 to the Act upon the Landlord and the Tenant.

The Committee inspected the House on 17 December 2014. The Tenant and Mr Rae on behalf of the Landlord were both present.

Following the inspection, the Committee held a hearing at the Credo Centre, John Street, Aberdeen. The Tenant did not attend despite having confirmed at the inspection his intention to do so. Mr W Rae was in attendance on behalf of the Landlord.

Submissions at the Hearing

The Committee considered the representations made on behalf of the Landlord by Mr W Rae. Mr Rae advised that the House had previously been owned by the Tenant. The Landlord had bought the House to let it to the Tenant.

Mr Rae is the Tenant's brother. Relations had deteriorated and Mr Rae had not spoken to his brother nor visited the House for around 18 months prior to the inspection. Mr Rae accepted that the property is in need of repair and did not attempt to argue that any of the issues raised by the Tenant in the Application were not valid. He advised that the intention had been that the Tenant would be responsible for all maintenance. However he acknowledges his legal obligations as Landlord. He has put into place certain works already and intends to complete further works soon.

He volunteered that the gas engineer in attendance at the property during the inspection had confirmed that the boiler was not fit for use and that he would arrange its replacement. He was going to have the sheds and decking removed and a replacement shed installed. The gardening works were already well underway.

Summary of the Issues

The issue to be determined is whether the House meets the repairing standard as laid down in section 13 of the Act and whether the Landlord has complied with the duty imposed by section 14(1)(b).

Findings in Fact

The Committee confined their inspection to the items of complaint detailed within the Tenant's Application.

The Committee made the following findings in fact:

The House is a semi-detached house.

The Tenant entered into an oral tenancy agreement in respect of the House in 2011. No written agreement exists.

The Landlord is the registered owner of the House.

The Tenant has been in possession of the House since before the beginning of the tenancy agreement (the Tenant having previously been the owner of the House) and remains in occupation.

The provisions of Chapter 4 of Part I of the Act apply to the tenancy.

The Tenant notified the Landlord of the defects in the House which are now the subject of the Application by recorded delivery letter to the Landlord dated 12 September 2014.

The inspection on 17 December 2014 revealed:

Scaffolding has been put up and the gutters replaced.

Extensive garden works including the cutting down of trees were underway at the time of the inspection.

A gas engineer arrived during the inspection to inspect the boiler. The Tenant complained that routine maintenance had not taken place.

The electrics were in working order but the consumer unit was old and there was evidence of overloaded circuits and exposed wiring. It appeared that some of the electrics may not have been installed to professional standards.

The door lock operated well with one key but not another.

The shower door appeared not to close as designed.

There was a constant trickle of water from the toilet cistern into the toilet bowl.

The sheds and decking in the garden are in poor condition and rotting.

There is no evidence of a mains powered smoke or heat detector in the House.

Reasons for the Decision

Roof gutters

These have been replaced and the Tenant confirmed that he was happy with the new gutters.

Garden

It was apparent that the garden had been overgrown and that trees had not been maintained. By the time the inspection was finished sufficient works had been done to put the garden into a reasonable standard.

Boiler

The Landlord accepts that the boiler is not in satisfactory condition and requires to be repaired or replaced.

Electrics

The electrics appeared in need of attention. The consumer unit was old and there was evidence of overloaded circuits and exposed wiring. It appeared that some of the electrics may not have been installed to professional standards.

Door Locks

The problem appeared to relate only to a poorly fitting key and the Tenant had a key which operated the door lock satisfactorily.

Bathroom

The small trickle from the cistern and the poor closure on the shower door did not appear to constitute significant problems such that the repairing standard would be breached.

Sheds and Decking

The sheds and decking were rotten and in need of removal and replacement. The Tenant confirmed that the reference to slippery paths in the Application was in relation to the decking.

Fire Detection

No mains powered smoke alarms or heat detectors were present.

The Repairing Standard

The Committee consider that the defects identified above in relation to the boiler, the electrics, the garden sheds and decking and fire detection constitute breaches of the repairing standard.

Repairing Standard Enforcement Order

Having decided to make a Repairing Standard Enforcement Order, the Committee considered the length of time which should be provided for compliance.

The Committee elected to impose a period of 42 days having regard to the nature of the defects identified.

Decision

The Committee, considering the terms of section 13(3) of the Act, 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(2) of the Act.

The decision of the Committee was unanimous.

Right of Appeal

Section 64 of the Act provides a right of appeal to a landlord or tenant aggrieved by a decision of a private rented housing committee. An appeal may be made to the Sheriff within 21 days of the Landlord or Tenant being informed of the decision.

Where such an appeal is made, the effect of the decision and 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.

John McHugh

John M McHugh
Chairperson

Date: 14 January 2015