



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

Re: Subjects being the lefthand house on the third floor above the ground floor at 105 MAIN STREET, BRIDGETON, GLASGOW, G40 1QD of the tenement 97, 99, 103 and 105 MAIN STREET, within the land edged red on the Title Plan;

Land Register Title number GLA55963

PRHP Reference: PRHP/RP/14/0296

The Parties:

ANGELO BARBI, Flat 3/1, 105 Main Street, Bridgeton, Glasgow, G40 1QD ("the tenant")

JOHN COLQHOUN, Flat 0/1, 173 Greenhead Street, Bridgeton, Glasgow, G40 1HX ("the landlord")

Reference number: PRHP/RP/14/0296

Notice to JOHN COLQHOUN ("the landlord")

Whereas in terms of its decision of 30th June 2015, 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 and in particular that the landlord has failed to ensure that the house meets the repairing standard in that:

the house is wind and water tight 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,

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,

any fixtures, fittings and appliances provided by the landlord under the tenancy 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.

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 to:

- (i) Undertake such works as are necessary to ensure that the windows of the living room are wind and water tight and fully operational;
- (ii) Instruct a suitably qualified electrician to replace the ceiling light fitting and complete such works as are deemed necessary so as to ensure that the ceiling light fitting is safe and fully operational;
- (iii) Produce a report from the electrician of the works undertaken and certification that they are complete.
- (iv) To repair and fill in the hole in wall of the kitchen;
- (v) To replace the sealant around the bath;
- (vi) To make safe the shower services within the bathroom;
- (vii) To instruct a suitably qualified electrician to make safe and in a reasonable state of repair and in proper working order all electrical services within the bathroom;
- (viii) To produce a report from the electrician of the works undertaken in the bathroom and certification that they are complete.

The Private Rented Housing Committee order that the works specified in this Order must be carried out and completed within a period of 4 weeks from the date of service of this Notice.

Right of Appeal

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.

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 determined.

IN WITNESS WHEREOF these presents typewritten on this are signed by Simone Sweeney, Chairperson of the Private Rented Housing Committee, at Glasgow, on 1st July, Two Thousand and Fifteen in the presence of the undernoted witness:

S SWEENEY

Chairperson.....

Witness.....

Designation..... / ADVOCATE

Business address.....

FACULTY OF ADVOCATES
ADVOCATES' LIBRARY
PARLIAMENT HOUSE
EDINBURGH
EH1 1RF.



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

(SCOTLAND) ACT 2006

In connection with

Property at Flat 3/1, 105 Main Street, Bridgeton, Glasgow, G40 1QD ("the property")

ANGELO BARBI, Flat 3/1, 105 Main Street, Bridgeton, Glasgow, G40 1QD ("the tenant")

JOHN COLQHOUN, Flat 0/1, 173 Greenhead Street, Bridgeton, Glasgow, G40 1HX ("the landlord")

Reference number: PRHP/RP/14/0296

Decision

Having made such enquiries as is 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 concerned and taking into account the evidence led from the tenant and the landlord at the hearing and the documentation and photographs submitted to the Private Rented Housing Panel ("PRHP") by the parties, the Private Rented Housing Committee ("the committee") determine that the landlord has failed to comply with the duty imposed by Section 14 (1) (b) of the Act.

Relevant Statutory Provisions

Section 13: The repairing standard

(1) A house meets the repairing standard if—

- (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, and

(f) the house has satisfactory provision for detecting fires and for giving warning in the event of fire or suspected fire.

Section 14: Landlord's duty to repair and maintain

(1) The landlord in a tenancy must ensure that the house meets the repairing standard—

(a) at the start of the tenancy, and

(b) at all times during the tenancy.

Background

1. By application dated, 29th December 2014, the tenant applied to the PRHP seeking a determination of whether or not the landlord had failed to comply with the duties imposed by Section 14 (1) (b) of the Act.
2. In his application the tenant indicated that the landlord had failed to comply with section 13 (1) (a) (b) (c) (d) (e) and (f) of the Act ("the repairing standard").
3. In his application, at section 5 the tenant offered specification of the work required at the property: *"Major repairs is the nature of the work that is needing to be done. For instance bathroom floor needs to be layed down, bedroom light needs to be fixed, wires are left bare and exposed, bathroom walls need attended to."*
4. The tenant had provided further specification of the works required in each room on a separate page. Within the living room the tenant stated the following repairs were required, *"Window leaks from heavy rain, Curtain pole taken down never put back up had to put up own curtains by nails, Wallpaper needs to be fixed. Middle window needs to be fixed have to lift to lock."*
5. The tenant identified problems within the bedroom as: *"Bedbase had to buy our own because landlord said he would get one but never did. Mattress needs replacing, light was taken down and wires left exposed. Chester draws, one runner broke."*
6. Within the kitchen, the tenant specified that there were, *"Holes in the wall near window."*
7. At the bathroom, the tenant specified that,

"Shower pipes are exposed, papering needs to be done, unit has to be put up, tiling has to be done; bath has to be sealed, bathroom floor as floor boards are showing."

8. Finally, on the additional page submitted with his application, the tenant stated, "Hall: Smoke Alarm."
9. In support of his application, the tenant had submitted a, "landlord notification of repair letter," dated 8th December 2014 and a document completed for the PRHP dated, 15th March 2015. In that document, the tenant had submitted further written representations which stated the following:

"Since my case landlord has being at flat once and put some lining paper up in bathroom covered panels in wallpaper paste.

My fridge freezer has broke freezer part have texted landlord no replay.
He has texted once to say he received my letter but still hasn't being near."
10. By letter of 3rd March 2015, the President of the PRHP referred the application to the committee in terms of Section 23 (1) of the Act.
11. An inspection and hearing were assigned for 5th June 2015. By letter of 15th May 2015, parties were given notice of the date and time of the inspection and hearing. The committee attended the property at 10am. Only the tenant was present. The inspection went ahead. Only the tenant attended the hearing which took place at the Europa building, 450 Argyle Street, Glasgow at 11am. The committee comprised the following members:
 - (i) Miss Simone Sweeney, Legal member and;
 - (ii) Mr Kingsley Bruce, Surveyor member.
12. At the hearing, the committee heard submissions from the tenant and considered the documentation submitted to the committee. At the conclusion of the tenant's submissions, the committee adjourned to consider all the evidence provided and to make its findings.

Submissions at the hearing

13. The committee chair invited the tenant to provide any further information on each of his complaints which he considered relevant to his application. The tenant confirmed that there had been no repairs undertaken by the landlord since the application had been submitted. The committee went through each complaint with the tenant.

14. Starting with the living room, the tenant submitted that problems with the bay windows caused water ingress during periods of heavy rain. The tenant conceded that this occurs when the rain is coming from a particular direction only. It has caused dampness on the wall and carpet below the window. The tenant accepted that there had been no evidence of water at this area at the time of the inspection and explained that the problem had not become obvious to him until the weather had deteriorated. The tenant explained that there are three separate windows. The window in the centre is difficult to open. The tenant submitted that the mechanism is stiff to open when he attempts to open it inwards. To close the window, the tenant required to, "lift" it and push the window into the closed position. The tenant referred to the wallpaper covering the walls of the living room. In his submission the wallpaper was not adequately finished. There were spaces between each piece and the wallpapers didn't join neatly. Also the tenant had identified some marks on parts of the wall. Finally the tenant submitted that there had been a curtain rail running the length of the bay window when he had come to reside at the property 2 years earlier. This had been removed by the landlord and never replaced. As a result he had required to secure curtains along the wall above the window with pins.
15. With regards to the bedroom, the tenant submitted that he had agreed a furnished let with the landlord. He had been provided with a bed when he had taken up the tenancy but the bed had collapsed. The tenant had complained to the landlord at this time who told him to throw the bedframe away. No replacement had ever been provided by the landlord and the tenant had had no alternative but to purchase another bedframe at his own expense. A chest of drawers was also provided. Two of the drawers could no longer be used due to the runners having broken on each. This reduced the storage space available to the tenant to accommodate his belongings. This had been brought to the attention of the landlord at his last visit in December 2014. Finally within this room was the issue of the main ceiling light. A light fitting had been in place when the tenant had taken over the property but the landlord had removed this and never replaced it. The only source of light available in this room was from two table lamps, only one of which was part of the furnishings provided by his landlord.
16. In the kitchen, the tenant referred to a hole in the plaster of the wall on which the window was positioned which he claimed to have brought to the attention of the landlord but he had failed to remedy the problem.
17. Turning to the bathroom, the tenant submitted that there was no floor covering ever provided just exposed plywood sheet flooring. The tenant confirmed that there had never been any floor covering in the bathroom during his period of residence. Since the application had been submitted, the landlord had attended the property and fitted lining paper to the wall but he had not returned to complete the decoration. The tenant

submitted that he had been led to believe that the landlord intended to fit an electric shower and in fact the water supply pipe and the pipe for the electricity supply remained exposed. No shower had ever been fitted however. Around the bath, the silicone sealant was in a state of disrepair.

18. The tenant advised the committee that although there was a battery operated smoke alarm fitted to the ceiling of the hallway, it had never worked during the period he had resided at the property. The tenant confirmed that there was one smoke alarm only in the property.
19. The tenant advised the committee that he had never signed a formal tenancy agreement with the landlord. Neither had he been provided with an Inventory listing all items within the property which formed part of the agreement.

Summary of the issues

20. The issues to be determined are;
 - (i) whether the landlord has complied with the duty imposed by sections 13(1) (a) (b) (c) (d) (e) and (f) of the Act and;
 - (ii) whether the landlord has complied with the duty imposed by section 14(b).

Findings in Fact

21. The committee makes the following findings in fact:
22. That the tenant took up residence at the property in or around, August 2013; That a letter attached to the application to the PRHP, purporting to be from the tenant stated, "*August 2013 moved in payed deposit.*"
23. There being no opposition from the landlord to the contrary, the committee finds that the date on which the tenancy commenced was, 1st August 2013.
24. That the property is owned by John Colqhoun and bears the title number GLA55963, with date of purchase being 2nd August 2012.
25. That the property is managed by John Colqhoun.

26. That the tenant provided no evidence to suggest that the tenancy was not his only or principal home.
27. That there is no written tenancy agreement between the parties.
28. That the tenancy started after 2nd January 1989 and that the tenant received no Notice from the landlord stating that the tenancy was a short assured tenancy and that the tenancy purports to be the tenant's only or principal home.
29. That section 12 (1) of the Housing (Scotland) Act 1988 states the following:
- (1) A tenancy under which a house is let as a separate dwelling is for the purposes of this Act an assured tenancy if and so long as-*
- (a) the tenant or, as the case may be, at least one of the joint tenants is an individual; and*
- (b) the tenant or, as the case may be, at least one of the joint tenants occupies the house as his only or principal home; and*
- (c) the tenancy is not one which, by virtue of subsection (2) below, cannot be an assured tenancy.*
30. That, by a matter of law, in terms of, section 12 (1) of the Housing (Scotland) Act 1988, an assured tenancy agreement exists between the parties.
31. That the start date of that assured tenancy agreement is the date on which the tenant took up residence of the property which the committee determines to be 1st August 2013.
32. That a letter attached to the application to the PRHP, purporting to be from the tenant stated, "The flat was to be fully furnished, pay £375 a month."
33. That, in the absence of anything from the landlord to suggest the contrary, that the terms of the agreement between the parties were that the tenancy was to be a furnished let.

34. That, by form of notification dated, 18th December 2014 from the tenant to Gary McCann, the landlord was notified of the tenant's complaint as the following: *"light in bedroom needs to be fixed, windows sealed, bathroom floor, walls in bathroom, pipes in bathroom, wall paper in living room, curtain pole, Middle window, chester drawers, bath seal smoke alarm. Mattress"*
35. That the tenant submitted an application to the PRHP dated, 29th November 2014.
36. That a copy of that application was intimated to the landlord by the PRHP.
37. That the landlord was provided with intimation of the tenant's complaint.
38. That the submissions of the tenant were that the landlord had undertaken no repairs since the date of his application to the PRHP; the landlord presented nothing before the committee to dispute this position.
39. That neither the owner nor property manager, Gary McCann, were present at either the inspection or the hearing on 5th June 2015.
40. That on the date of the inspection there was very light rain.
41. That the property is a top floor, tenement flat, assumed to be in excess of 120 years old, accommodation comprising two apartments kitchen and bathroom, located in an urban area, Bridgeton a short distance to the east of the City Centre of Glasgow.
42. That, on inspection of the living room of the property, the committee found that the windows were not wind and water-tight. The mastic sealant to the left window of the livingroom was in a state of disrepair.
43. That, on inspection of the living room windows, the committee found that the mechanism for opening the middle window was in a state of disrepair.

44. That, on inspection of the living room, the committee found there to be wallpaper attached to the walls of the room. It was identified that there was a small space between two sheets of wallpaper.
45. That, on inspection of the bedroom, the committee found that the ceiling light had been removed leaving exposed wires and that there was no overhead lighting within the bedroom.
46. That, on inspection of the bedroom, there was a bedframe with a mattress.
47. That, on inspection of the bedroom, the committee identified a chest of drawers within the bedroom containing four drawers. Two of the drawers were identified as having broken runners preventing the tenant from storing any belongings within them.
48. That, on inspection of the kitchen, the committee identified a hole in the plaster of the wall adjacent to the window.
49. That, on inspection of the bathroom, the committee identified the seal around the bath to be in a state of disrepair, allowing water to escape between the bath and the wall.
50. That, on inspection of the bathroom, the committee identified exposed pipes, intended to supply water and electricity to a shower unit.
51. That the services for a wall mounted shower were present and attached to the wall and covered by a plastic bag.
52. That the exposed pipes create a potential health and safety risk.
53. That, in the bathroom, the committee identified no covering on the floor of the room.

54. That, the evidence of the tenant was that the floor had been in this state since commencement of the tenancy and that there had been no change to the floor covering.
55. That, on inspection of the property, the committee identified a number of wall tiles which the tenant advised had been left by the landlord;
56. That the evidence of the tenant was the he understood that the landlord's intention was to fit the tiles to the wall behind the bathroom sink, thus creating a "splashback" but that no wall tiles had been fitted.
57. That, on inspection of the property, the committee observed a battery smoke detector fitted to the ceiling of the hallway of the property.
58. That a test undertaken by the surveyor member of the committee identified that the smoke detector was not in proper working order.
59. That the evidence of the tenant was that the smoke detector had never been in working order since commencement of the tenancy in August 201

Reasons for decision

60. The committee considered the left window of the living room to be in such a state of disrepair that water ingress was possible and that the property was not wind and water-tight; Therefore the property does not meet the repairing standard of section 13 (1) (a) of the Act.
61. Having found the mechanism for opening the middle window, within the living room to be in a state of disrepair, the committee considered there to be difficulties with the window being opened and closed; Therefore the property fails to meet the repairing standard of section 13 (1) (b) of the Act.
62. Having identified a small space between two sections of wallpaper, the committee did not find the space to amount to a failure of section 13 (e) of the repairing standard.

63. Having identified that there were exposed wires in the ceiling where the ceiling light had been and that there was no provision for overhead lighting, the committee found that the property fails to meet the repairing standard of section 13 (1) (d) of the Act.
64. Having identified that a bedframe was in evidence; that there was no failure of the repairing standard in that regard.
65. The chest of drawers fails to provide the storage space intended. Therefore the property does not meet the repairing standard of section 13 (1) (e) of the Act.
66. Having identified a hole in the plasterwork of the kitchen wall, the committee find that this should be filled in as it serves no purpose. The committee finds the hole in the wall to amount to a failure of the property to meet the repairing standard of section 13 (1) (b) of the Act.
67. Having identified that the seal around the bath is in such a state of disrepair that water could escape between the bath and the wall, the committee finds that the seal requires to be replaced to prevent any water ingress. The property does not meet the repairing standard of section 13 (1) (a) of the Act therefore.
68. In the bathroom, having identified exposed pipes, intended to supply water and electricity to a shower unit, to pose a potential health and safety risk, the committee finds that the property does not meet the repairing standard of section 13 (1) (c) of the Act therefore.
69. In light of the fact that there had been no change to the flooring of the bathroom and it remained the same as it had been at commencement of the tenancy, the committee finds no failure of section 13 (e) of the Act in respect of this part of the tenant's complaint.
70. Having inspected the bathroom and considered the tenant's evidence, that the bathroom remained in the same way it had presented itself at commencement of the tenancy, the committee finds no failure of section 13 (e) of the Act in respect of this part of the tenant's complaint.
71. There being no provision for detecting fire or smoke within the property, the committee finds that the property fails to meet the repairing standard of section 13 (1) (f) of the Act.

Decision

72. The committee determines that the landlord has failed to comply with the duties imposed by sections 13 (1) (a) (b) and (c) (d) and (f) and 14 of the Act.
73. The committee proceeded to make a Repairing Standard Enforcement Order (RSEO) as required by Section 24 (1). The RSEO has a time limit of 4 weeks from the date of service of the Order for the landlord to carry out works necessary to ensure that the property meets the repairing standard.
74. The RSEO determines that the landlord completes the following works:
 75. That the landlord undertakes such works as necessary to ensure that the windows of the living room are wind and water tight and fully operational;
 76. That a suitably qualified electrician replaces the ceiling light fitting and completes such necessary works so as to ensure that the ceiling light fitting is safe and fully operational; that the landlord produces a report from the electrician of the works completed.
 77. That the hole in the wall of the kitchen is repaired;
 78. That the seal around the bath is replaced;
 79. That the shower services within the bathroom, are made safe; All installations should be put in a reasonable state of repair and in proper working order;
80. The decision of the committee was unanimous.

Right of Appeal

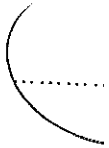
81. A landlord or tenant aggrieved by the decision of the Private Rented Housing committee may appeal to the Sheriff by summary application within 21 days of being notified of that decision.

Effect of section 63

82. 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

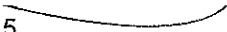
is abandoned or finally determined by confirming the decision, the decision and the order will be treated as having effect from the day on which the appeal is abandoned or determined.

S SWEENEY

A handwritten signature consisting of a large, sweeping curve that starts on the left, goes up and over, and then comes down to the right. A horizontal dotted line is drawn across the middle of the curve.

.. Chair

At Glasgow on 30th June 2015

A simple, horizontal, slightly curved handwritten flourish.