



REPAIRING STANDARD ENFORCEMENT ORDER

BY THE

PRIVATE RENTED HOUSING COMMITTEE

PRHP Ref: prhp/G51/140/11

PROPERTY

Flat 1/1, 1 Clutha Street, Glasgow G51 1BL, registered under title number GLA83306

PARTIES

Miss Frances McLeod, Flat 1/1 1 Clutha Street, Glasgow G51 1BL

Tenant

and

Shawlands Ltd, Incorporated under the Companies Acts (Company Number 403463) and having its Registered Office at 1353 Pollokshaws Road, Glasgow per Dr & Mrs Sohail Chaudry, residing at 1353 Pollokshaws Road, aforesaid

Landlord

REPAIRING STANDARD ENFORCEMENT ORDER ('RSEO') AGAINST,

1. **WHEREAS** in terms of their decision dated Sixteenth January Two thousand and twelve, the Private Rented Housing Committee ('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 ('the Act') and in particular the property fails to meet the repairing standard as set out in section 13(1) of the Act.

2. The Committee now requires the landlord carry out such work as is required to ensure the property meets the repairing standard and that any damage caused as a consequence of carrying out of any works in terms of this Order are also made good before the expiry of the Completion Date.

THE ORDER

3. In particular, and without prejudice to the foregoing generality, the Committee **HEREBY ORDERS** the landlord to carry out the following repairs ('the Works');-
 1. To obtain a Gas Safety Certificate to include consideration of the exposed gas pipe in the front bedroom (left) and to take such action as identified by such a report to render the fitting safe and secure.
 2. To remove or make safe the exposed electrical wiring in the hall.
 3. To repair the bath seals and cover strip around the bath.
 4. To remove the combustible material consisting of cardboard and polystyrene formers from the void above the false ceilings in the bedrooms.
 5. To commission a report from the fire services regarding the suitability and safety of the ceiling tiles in the bedrooms and to take any necessary action as recommended therein to make the false ceilings safe.
 6. To commission a report on the operation and adequacy of the central heating system and to take any action recommended therein to ensure that it is in a reasonable state of repair and in proper working order.
 7. To ensure that the electric heater provided to replace the condemned gas fire is in a reasonable state of repair and in proper working order.

4. The Committee **HEREBY FURTHER ORDERS** that the Works specified in this Order must be carried out and completed before the expiry of the Completion Date of 6 weeks from the date of service of this Order.

RIGHT OF APPEAL

5. A landlord or tenant has the right to appeal this decision to the Sheriff by summary application within 21 days of being notified of that decision.

EFFECT OF APPEAL

6. In terms of section 63 of the Act, where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by confirming the decision, the decision and any 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 consisting of this and the preceding two pages are subscribed by me, David Michael Preston, Solicitor, 57 Strathcona Drive, Glasgow, Chairman of the Private Rented Housing Committee, at Glasgow on the 16. day of January two thousand and twelve in the presence of *Fiona Christine Bracelin, Legal Secretary, 50 Wellington Street, Glasgow.*

D Preston

Chairman

F Bracelin

Witness



PRIVATE RENTED HOUSING COMMITTEE
STATEMENT OF DECISION UNDER SECTION 24(1) OF THE HOUSING (SCOTLAND)
ACT 2006

prhp Ref: prhp/G51/140.11

PROPERTY:

Flat 1/1, 1 Clutha Street, Glasgow G51 1BL

INSPECTION & HEARING

13 January 2012

The Parties:-

Miss Frances McLeod (represented by Govan Law Centre, 18-20, Orkney Street, Unit 4, Glasgow G51 2BZ, her agent) (hereinafter referred to as "the Tenant")

Shawlands Ltd, Incorporated under the Companies Acts (Company Number 403463) and having its Registered Office at 1353 Pollokshaws Road, Glasgow per Dr & Mrs Sohail Chaudry, residing at 1353 Pollokshaws Road, aforesaid (represented by Richard Thorburn, their agent) (hereinafter referred to as "the Landlord")

Decision

The Committee, 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) in relation to the property, and taking account of the evidence led by the Tenant at the hearing, determined that the Landlord had failed to comply with the duty imposed by Section 14 (1)(b) of the Housing (Scotland) Act 2006 (hereinafter referred to as "the Act").

Background

1. By application dated 19 July 2011 the Tenant applied to the Private Rented Housing Panel (PRHP) 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 her duty to ensure that the house meets the repairing standard and in particular that the Landlord had 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 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 fixture, fittings and appliances supplied by the Landlord under the tenancy are in a reasonable state of repair and in proper working order.
3. PRHP served Notice of Referral under and in terms of Schedule 2, Paragraph 1 of the Act upon both the Landlord and the Tenant. Following service of the Notice of Referral no written representations were received from the Landlord and the Tenant made representations by letter from her agent dated 24 November 2011.
4. By letter dated 12 December 2011 the President of the PRHP intimated a decision to refer the application under Section 22 (1) of the Act to a Private Rented Housing Committee (PRHC).

The Committee comprised the following members:

Mr. David M Preston, Legal Member
Mr. Mike Links, Surveyor Member
Mr. Chris Harvey, Housing Member

5. The PRHC inspected the Property on the morning of 13 January 2012. The Tenant and Mr Thorburn, agent for the Landlord were present. The Landlord was not present.
6. Following the inspection of the Property the PRHC held a hearing at the PRHP office, 140 West Campbell Street, Glasgow, G2 4TZ. The hearing was attended by Mr Thorburn, the Landlord's representative. The Tenant did not attend and was not represented. The Committee drew no inference from the non-attendance of the Tenant in its deliberations.
7. At the outset, Mr Thorburn advised that his client had not received details of any of the complaints by the Tenant. The Committee referred him to the various letters and notices of intimation which had been sent by recorded delivery to the Landlord named in the Lease between the parties dated 4 June 2010. He explained that his client, had initially managed the property through Mr Arshi Ilya, Property Nation Ltd, who did not appear to have passed on any of the relevant correspondence. Title to the property had recently been transferred to Shawlands Ltd of which Mrs Chaudry was a Director, but Dr Chaudry was actively involved in managing the property. In any event, Mr Thorburn accepted that service and notice had been duly made in terms of the Act and that any difficulties faced by the Landlord in that respect were a matter for them and had no objection to the hearing proceeding. He had been given an opportunity to study the relevant documentation prior to the hearing.
8. Mr Thorburn requested that the Committee adjourn the hearing to enable him to take full instructions on the paperwork.
9. The Tenant had incorporated into her application the terms of a report from Stirling Howieson, Chartered Architects and Chartered Engineers dated 28 April 2011. Copy letters from Govan Law Centre dated 10 May 2011 were also available to the Committee along with the letter of representation dated 24 November 2011.

The application and papers referred to the following issues in respect of which it was alleged that the property failed to meet the repairing standard:-

- 9.1. There is an exposed gas supply pipe valve in the front bedroom (left) which may result in gas escaping if the pipe were damaged or the valve turned.
- 9.2. There is an exposed electrical wire (previously a wall light) in the hall which appears to be live and is an obvious hazard.
- 9.3. The mastic seal and cover strip around the bath are in a poor condition allowing water from the shower to run down the wall and penetrate the lower flat resulting in complaints from the neighbours about damage to their bedroom.
- 9.4. There are false ceilings in all rooms apart from the kitchen where an area of ceiling has been poorly repaired. The false ceilings comprise tiles on a suspended metal grid in an attempt to reduce the heated area. 'Insulation' is being provided by a variety of cardboard boxes and polystyrene formers. As there are electrical cables in these voids supplying ceiling lights, these

miscellaneous items are a fire hazard. It was alleged that the tiles were not suitable for residential property.

- 9.5. The Tenant finds the property hard to heat, which was alleged to be because the radiators in the rooms throughout the property are undersized for the task. A gas fire which had been condemned in a gas safety inspection had been removed and an electric heater had been provided to replace it. However it was inadequate to heat the living room in which it was situated.
- 9.6. The Tenant was unable to use the kitchen at night due to complaints from the neighbours that the flooring is not suitably soundproofed and makes an excessive amount of noise even with normal use. The report indicated that subsidence had resulted in the floor running of by approx 100mm and that several floorboards appeared to have sprung and there appears to be a problem with the deadening providing sufficient acoustic deadening between the flats.
- 9.7. There is an old chimney from which the condemned gas fire was removed and which lets out a lot of heat, which the Tenant had stuffed with pillows in an effort to reduce heat loss.

Summary of issues

10. The issue to be determined was whether the property meets the repairing standard as laid down in Section 13 of the Act and whether the Landlord had complied with the duty imposed by Section 14(1)(b).

Findings in Fact

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

11.1. On 4 June 2010, the Tenant entered into a lease with the Landlord for the rent of the property. The Landlord's interest in the Lease had been assigned on a number of occasions and, at the time of the application and at the date of the hearing, the Landlord for the purposes of the application is as identified. The provisions in Chapter 4 of the Act apply.

11.2. The property is a first floor flat and comprises lounge, kitchen, 3 bedrooms, and bathroom. The house is not a listed building.

11.3. With regard to the points raised in the application the inspection revealed:-

11.3.1. The exposed gas pipe referred to has been blanked and appeared to be secure. It was reported to the Committee by the Tenant that a Gas Safety Certificate had been obtained in or about March 2011 but that the inspection had not noted this pipe.

11.3.2. The exposed electrical wire in the hall has a cable connector attached to it. The Committee is not qualified to confirm whether wiring is live.

11.3.3. The Committee was satisfied that the mastic seal and cover strip around the bath were in a poor condition and rot damage was noted to the floor in the vicinity of the bath. Any damage to the neighbour's flat was not inspected.

11.3.4. The false ceilings described by the Tenant in the application were noted to be in the three bedrooms. The hall and living room had timber

false ceilings and the kitchen ceiling appeared to be in its original state. Certain tiles appeared to be damaged and an inspection in the front (right) bedroom confirmed the presence of various cardboard boxes and polystyrene formers. The Committee was satisfied that cardboard and polystyrene in the void was a fire hazard. An obvious area of the kitchen ceiling appeared to have been patched.

11.3.5. The Boiler was situated in the kitchen. The report from Stirling Howieson indicated that it was considered to be of an adequate rating to provide adequate heat output, but that the radiators in the living room and bedrooms were considered to be somewhat undersized for the task. The Committee noted that there were radiators in each room and in the hall. The heating system was turned off at the time of inspection and the Tenant reported that she only switched it on for the purpose of hot water when required. She advised that the pressure in the boiler dropped daily and had to be replenished. She reported that she saw no purpose in having the system switched on as the radiators did not give off any appreciable heat. The Committee did not have the opportunity to test the system.

11.3.6. The kitchen floor was uneven. The Tenant advised that the neighbours complained about noise from normal use of the floor but also indicated that they seemed to complain at every opportunity about a number of other issues. She advised that she was not aware of any underfloor inspection having been carried out. She reported that the corresponding room in the flat below was a bedroom.

11.3.7. The Committee did not consider that the matter of the chimney space was a matter for consideration in relation to the repairing standard.

12. Mr Thorburn submitted that his client had not had an opportunity to rectify the reported problems, although he conceded that this was the client's problem with communication. He conceded that a number of the points raised were the Landlord's responsibility. However he submitted that some concerns did not affect the habitability of the property.

12.1. He pointed out that the exposed gas pipe appeared to be secure and safe and that it was not clear whether the wiring was in fact live.

12.2. He agreed that the issues in respect of the bath seals and surrounds were valid concerns for his clients.

12.3. He accepted that the cardboard and polystyrene should be removed from the void above the false ceilings. He submitted that the repair to the kitchen ceiling was purely cosmetic.

12.4. He agreed that the kitchen floor was uneven but submitted this was not an issue for the Landlord.

12.5. He accepted that there may be an issue with the central heating boiler in view of the loss of pressure.

Reasons for the decision

13. The Committee was satisfied that the Tenant's concerns had been intimated on a number of occasions to the Landlord's property manager, as known to the Tenant and as identified in the Lease, who had failed to respond to her concerns. In particular they had failed to arrange for the necessary work to be carried out to ensure that the property meets the repairing standard.

14. The Committee is not qualified to confirm whether the exposed gas pipe is safe and secure. It was also noted that a Gas Safety Certificate had been obtained in or about March 2011 and would be due for renewal in March 2012. It was further noted that the existing certificate had not included this fitting. Accordingly the Committee considered that a gas safety inspection be carried out to include the gas pipe. If such an inspection reveals that the fitting is unsafe or insecure, then it is the Landlord's duty to carry out necessary work to make it safe.
15. The Committee is not qualified to confirm whether the exposed electrical wiring is safe and secure and considered that it is the Landlord's duty to ensure that the wiring is removed or made safe.
16. The Committee was satisfied that the condition of the bath seals and cover strip have deteriorated resulting in the dampness evidenced in the floor. The Landlord is responsible for ensuring that the bathroom fittings are in a reasonable state of repair and in proper working order.
17. The Committee is not qualified to confirm whether the tiles are appropriate for residential use or present a fire hazard. However as the concern had been raised by the Tenant, and in the event that they are unsuitable it is the Landlord's duty to remove or replace them. Accordingly a report should be obtained by the Landlord from the fire services to confirm the position and Landlord should take necessary action thereon. The Landlord has a duty to ensure that the combustible materials in the void above the false ceilings are removed. The condition of the kitchen ceiling was considered to be a matter of cosmetic decoration and as such the Committee makes no order in that regard.
18. The Committee considered that although the central heating system appeared to be in working order, there was a possible issue with the boiler in relation to the loss of pressure. This had not been a specific issue raised in the application and was accordingly not a matter which fell within the jurisdiction of this Committee. The Committee noted that section 13 of the Act requires it to consider the state of repair of the heating system and whether it is in proper working order. It does not specifically address the adequacy of such a system. However the intention of the legislation was to ensure that the property is suitable for reasonable habitation. Accordingly, the Committee considered that the Landlord should commission a report on the central heating system which could usefully include the condition of the boiler and should ensure that the electric heater provided to replace the condemned gas fire is in a reasonable state of repair and proper working order.
19. The Committee was unable to identify the basis of the Act on which the issue of deadening under the kitchen floor was a relevant consideration. In any event, no evidence had been produced as to the inadequacy of the deadening. The Stirling Howieson report in this regard was based on supposition as no inspection had been carried out. It is not unusual to have noise issues in tenement properties.
20. The Committee considered the application by Mr Thorburn for an adjournment but was satisfied that the Tenant had raised the issues some considerable time ago and that the Landlord's duties should be fulfilled as soon as possible. It took into account that if the Landlord intended to carry out the work which had been accepted by Mr Thorburn there would be no prejudice by proceeding to make a Repairing Standard Enforcement Order.

Decision

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

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.

Effect of section 63

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 . **D Preston**
Chairperson

Date..... 16/1/12