



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

PRHP Ref: PRHP/RP/15/0072

Property at: 32 Auchmill Road, Aberdeen, AB21 9LD ("the property")

Title No.: ABN10355

The Parties

Angela Gordon, residing at 32 Auchmill Road, Aberdeen, AB21 9LD ("the tenant")
and

Chalmers Bakery Ltd (Company number 92467), a company incorporated under the Companies Acts and having their registered office at 15 Golden Square, Aberdeen ("the landlord")

NOTICE TO Chalmers Bakery Ltd (Company number 92467), a company incorporated under the Companies Acts and having their registered office at 15 Golden Square, Aberdeen ("the landlord")

Whereas in terms of their decision dated 21 July 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:

- (a) The house is wind and water tight, and in all other respects, reasonably fit for human habitation, in terms of Section 13(1)(a) of the 2006 Act; and
- (b) The installations in the house for the supply of electricity, and for heating water are in a reasonable state of repair and in proper working order, in terms of Section 13(1)(c) of the 2006 Act.
- (c) The structure and exterior of the house is in a reasonable state of repair in terms of Section 13(1)(b) of the 2006 Act.

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) To instruct an appropriately qualified contractor to carry out a standard electrical installation condition report on the property and to carry out any works which are shown to be necessary in terms of said report to bring the electrical installations and wiring throughout the

property into a proper state of repair and to proper working order, with particular attention to the immersion heater, kitchen water heater, kitchen/living room extractor fan and loose socket. Thereafter to produce an electrical installation compliance report dated after today's date;

(b) Replace the broken and rotten sections of wood on the external stair to the property and to fit an anti-slip surface on each of the step treads on that stair;

(c) Properly secure the loose hot water tap on the bath in the property;

(d) Inspect, overhaul and repair as necessary, the roof of the property;

The works specified in this Order must be carried out and completed within six 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.

In witness whereof these presents are executed by Paul Doyle, solicitor, 24 Haddington Place, Edinburgh, chairperson of the Private Rented Housing Committee at Edinburgh on 23 July 2015 before this witness:-

P DOYLE

K BOETTCHER

witness

chairman
}

Kirsten Boettcher
Secretary
24 Haddington Place
Edinburgh



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

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Property at: 32 Auchmill Road, Aberdeen, AB21 9LD ("the property")

The Parties

Angela Gordon, residing at 32 Auchmill Road, Aberdeen, AB21 9LD ("the tenant")

and

Chalmers Bakery Ltd (Company number 92467), a company incorporated under the Companies Acts and having their registered office at 15 Golden Square, Aberdeen ("the landlord")

Decision

The committee, having made such enquires 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 in relation to the property concerned and taking account of all of the evidence available to the committee, determined that the landlord has failed to comply with the duty imposed by Section 14(1)(b) of the 2006 Act.

Background

- 1 By application dated 17 February 2015, the tenant applied to the Private Rented Housing Panel to determine whether or not the landlord had failed to comply with the duties imposed by Section 14(1)(b) of the Housing (Scotland) Act 2006 ("the 2006 Act").
- 2 The application by the tenant stated that the tenant considered that the landlord had failed to comply with his duty to ensure that the house meets the repairing standard and in particular that the landlord has failed to ensure:
 - (a) that the house is wind and water tight, and in all other respects, reasonably fit for human habitation, in terms of Section 13(1)(a) of the 2006 Act; and
 - (b) that the installations in the house for the supply for water, gas and electricity, and for sanitation, space heating and for heating water are in a reasonable state of repair and in proper working order, in terms of Section 13(1)(c) of the 2006 Act.

3 By interlocutor of 7 May 2015, the president of the Private Rented Housing Panel intimated a decision to refer the application under Section 23(1) of the 2006 Act to a Private Rented Housing Committee. The Committee was made up of:

Paul Doyle	Chairperson
Mike Scott	Housing Member
Angus Anderson	Surveyor Member

4 The Private Rented Housing Committee served notice of referral under and in terms of Schedule 2 Paragraph 1 of the 2006 Act on the landlord and the tenant. Following service of the notice of referral, the tenant made no further material written representations. The landlord's agent submitted a letter dated 3 June, 2015 which was copied to the tenant. In outline, this letter stated the landlord was not aware of some of the defects, suggested that the tenant was responsible for damp caused by condensation and provided some background relating to the tenancy being connected with the tenant's employment.

5 The committee inspected the property at 10am on 9 July 2015. Ms Pamela Chalmers, one of the landlord's directors was present with her solicitor, Ms R O'Neil. The tenant was present but was not represented.

6 Following an inspection of the property, the Private Rented Housing Committee held a hearing at the Credo Centre, John Street, Aberdeen. Both the landlord and the tenant were present. The tenant was unrepresented, but was accompanied by her sister-in-law. Ms Chalmers attended for the landlords and was represented by her solicitor, Ms R O'Neil. Both Ms Chalmers and the tenant answered questions from committee members.

7 The tenant's position is that the property is infested with damp, that there is inadequate provision for heating and that there has not been hot water in the property for approximately 18 months, that the electrical installations are unsafe and that the steps to the exterior of the property are dangerous. The tenant is concerned that a defect in a neighbouring property has affected this property.

8 The landlord's position is that there are no defects in the house.

Summary of Issues

9 The issues to be determined are:

- (a) is the house wind and water tight, and in all other respects reasonably fit for human habitation; and

- (b) are the installations in the house for the supply of water, gas and electricity and for sanitation, space heating and for heating water in a reasonable state of repair and in proper working order.

Findings in Fact

10 (a) The landlord is the heritable proprietor of the property which is the subject matter of this application. In 2012 the landlord rented the property to the tenant. No formal lease was entered into it was agreed that the tenant would pay £50 per week rental. The property was unfurnished when it was let to the tenant.

(b) The subject property comprises a self-contained, first floor flat within a two storey, semi-detached building which has vacant commercial premises on the ground floor. The building was constructed approximately 100 years ago and has solid stone outer walls and a pitched and slated roof. The building fronts directly onto the pavement of Auchmill Road. Access is via a fixed timber stair to the rear of the building. Accommodation comprises Entrance Hall, Bathroom, Kitchen/Living Room and Bedroom. Space heating is provided by portable electric heaters owned by the tenant, there is no fixed central heating system. The windows are double glazed throughout.

(c) In August 2012 roofers instructed by the landlord fitted 9 slate Air vents in the roof of the property to help stop condensation in the property and in the roof space above the property. In September 2012 a joiner instructed by the landlord removed damp plaster board from the internal walls of the property, reframed & replaced the plasterboard walls, & fitted new skirting and beading.

(d) In October 2012, a joiner instructed by the landlord repaired the external stairs to the property by fitting new step treads and replaced the handrail.

(e) On the date of inspection, the steps did not have any anti-slip protection on the treads. The fifth step from the ground is broken. The wooden stringers are rotten.

(f) The property is plumbed for hot and cold water. The property has an immersion heater and a small geyser, over the kitchen sink, designed to provide ready access to small amounts of hot water. Neither the immersion heater nor the geyser work. The immersion heater switch cannot be operated because it has been painted over (locking the switch in the "OFF" position). Other than the instantaneous electric shower, the tenant has not had a supply of hot water for many months. The only source of space heating is the tenants own portable electric heaters.

(g) There have been no electrical safety inspections since the tenant moved into the property. In the livingroom/kitchen an electrical wall socket has a loose facing, which makes the socket difficult to use. In the kitchen there are three electrical switches which should control, *inter alia*, the extractor fan and the immersion heater. Each of those power supply switches are painted over so that they cannot be used.

(h) There is only one smoke detector in the property. It is a battery operated smoke detector attached to the ceiling in the central hallway. There is no heat detector in

the kitchen of the property. There is no smoke alarm in the living area of the property. In order to comply with the repairing standard, the property requires a network of hard wired fire alarms connected to a heat detector in the kitchen.

(i) The bathroom is fitted with a white three piece sanitary suite. There is an electrically powered instant shower over the bath. The bathroom has adequate ventilation, provided by a window which was open when the committee inspected the property. The bathroom bears signs of condensation mould on the walls and window surround. The hot water tap on the bath is loose.

(j) During the inspection, mould growth was evident to the surface of the outer walls within the Kitchen/Living Room, particularly behind and on the furniture, from skirting height up to around 80cm. The wallpaper was beginning to lift in some areas. Damp meter tests revealed slightly above average readings on the whole outer wall surface, with no significant difference between mouldy areas and areas unaffected, which were generally higher up the walls. Further mould growth was evident within the Bedroom, again on the surface of the outer walls from skirting height up to around 80cm and again wallpaper was lifting in places. Damp meter tests again revealed slightly above average readings on the whole outer wall surface, with no significant difference between mouldy areas and areas unaffected. The mould growth and level and the pattern of damp readings are consistent with condensation.

(k) The property has a slated pitched roof. Some of the slates are chipped and broken. Some slates have slipped. There is evidence of water ingress in one small area of the bedroom ceiling. It is likely that water has leaked through the compromised areas of slating.

(l) The internal soffit of the lintel over the main entrance door was stained and appeared slightly bowed. When tested, no significant damp was detected. An area of staining on the ceiling adjacent to the bedroom window was tested with the damp meter; this area was found to have high levels of damp. There had been rainfall during the 24 hours preceding the inspection. Externally, the rear roof slope was inspected from the garden area. It could be seen that there were several missing and broken slates. The absence and presence of dampness in the respective locations indicated there was no longer a leak at the entrance door, but the area adjacent to the bedroom window was still affected by penetrating damp.

(m) Externally, the original wooden staircase was inspected. The original wooden treads had been overlaid with new timbers similar to those used for external decking and a new handrail had been fixed on to the original. Decay was evident to the stringer, adjacent to the rear wall of the building. The leading edge of one tread was broken. Other than the "deck board style" grooves on the tread surface, there was no anti-slip coating. The flight had a relatively steep angle, to fit the confines of the space available. It did not appear that the angle of the stairs had been altered in recent times, if ever.

(n) In the application, the tenant referred to a drainage issue affecting the neighbouring property, also in within the control of the landlord. It was established during the inspection that there was no effect on the subject flat. At the hearing, the

landlord stated that there had been a blocked drain which affected the vacant commercial premises below the flat and although there were still some repairs required within the vacant property, the blockage had been dealt with.

(o) A schedule of photographs taken during the inspection is annexed hereto.

Reasons for decision

11 (a) The committee inspected this property on a dull, overcast but dry day. Access to the property is gained by a driveway to the side of the property, which leads to the rear of the larger building of which this property forms part. At the rear of the property there is a steep timber stairway leading to the front door of the property. Committee members could see that repairs had been made to that steep timber stairway some time ago. Committee members could also see that those repairs were no longer effective. The fifth step (from the ground) is broken and narrow. The handrail is resting on wood which is rotten. The stringers securing the individual steps are compromised by rot.

(b) On entry to the property, Committee members could see signs of condensation dampness. Higher than average meter readings were taken in each of the rooms. Staining was obvious on the interior walls in each of the rooms, and the wallpaper in the bedroom was peeling away from the wall. The damp in the property is neither rising nor penetrating damp. It is condensation dampness. Condensation is found in properties which are not adequately heated or ventilated. It is common ground that the only source of heat in this property is two electric heaters belonging to the tenant. It is also common ground that the property was let unfurnished.

(c) The remedy for condensation is in the tenant's own hands. Condensation exists in the property because of the interaction between warm air and cold air circulating within the property. If the tenant moves the furniture away from the walls and heats and ventilates the property so that there is an adequate circulation of warm air, the condensation problem will be resolved.

(d) During the inspection, the tenant complained that there was no hot water in the property. Both the tenant and the landlord agreed that there is an immersion heater in the property, activated by an electrical switch on the wall of the kitchen. The tenant demonstrated that the immersion switch is locked in the off position. Committee members could see that there were three similar switches at about shoulder height in the kitchen. One was to operate the immersion heater, another to operate an extractor fan fitted into the window above the kitchen sink. It was not clear whether or not the remaining electrical switch is still in use but each of the electrical switches had been painted over so that they could not be used and each switch was locked into the "off" position.

(e) There was a small geyser attached to the wall immediately above the kitchen sink. The tenant complained that the geyser does not work. Committee members tried to manipulate the controls for the geyser but were unable to do so. Committee members turned on the hot tap (at the kitchen sink) and allowed it to run for a short while. Only cold water came through the tap.

(f) There is an electric power shower in the bathroom, with the shower unit over the bath. The tenant confirmed that within the last two years that power shower unit has been fitted and that it works properly so that there is a provision for hot water from the shower unit. However, on the balance of probabilities, that is the only source of hot water in this property. Committee members' observations indicate that the immersion heater does not work because it does not have an effective switching mechanism to switch it on and off.

(g) The question of the provision of hot water is linked to the tenant's complaints about the quality of the electrical installations within the property. Committee members could see that a double panel socket on the wall of the kitchen was loose and the fitting wobbled in the wall.

(h) A hearing took place at 11.30am on 9 July 2015 within the Credo Centre, John Street, Aberdeen. Both the tenant and Ms Chalmers for the landlord answered questions from committee members. Ms Chalmers candidly admitted that no electrical safety/compliance checks had been carried out since the tenant moved into the property. Committee members' observations indicate that switches are painted over and cannot be used, that the immersion heater does not work, that the extractor fan in the kitchen does not work and that there is at least one loose power socket. Committee members therefore find that the installations for the supply of electricity and for heating water are not in a reasonable state of repair and are not in proper working order so that the requirements of Section 13(1)(c) of the 2006 Act are not met. The committee make a repairing standard enforcement order ("RSEO"), requiring the landlord to inspect and repair the entire electrical installation for the property and thereafter to produce a satisfactory electrical installation condition report.

(i) It is not part of the tenant's application that there is inadequate provision for detecting fires or for giving warning in the event of fire or suspected fire, however committee members could not help but note that there is only one battery operated smoke detector within this property. Since 2013, it has been necessary to have mains wired, interlinked smoke and fire detectors in a rented property in order to meet the repairing standard. If the applicant had raised the issue of smoke detectors as part of her application, the committee would have no hesitation in making a Repairing Standard Enforcement Order because the requirements of Section 13(1)(f) of the 2006 Act are not met. It is only because the landlord has not received fair notice of the inadequacy of provision for the detection of smoke or fires within the property that a Repairing Standard Enforcement Order in relation to the installation for the detection of smoke and fires is not made.

(j) The committee is confident that the landlord will want to take advantage of the opportunity to provide satisfactory provision for detecting fires prior to the instructing of the electrical installation compliance report.

(k) Although the tenant complains that "*the property has ineffective electric heaters...*" it is common ground that this property was let unfurnished. There are two small portable electric heaters in the property and the tenant identified them as her own. In the particular circumstances of this application, the landlord is not

responsible for the installations for space heating nor are the electrical heaters in the house fixtures, fittings or furnishings provided by the landlord.

(l) When committee members inspected the bathroom of the property committee members manipulated the hot water tap serving the bath and found that there was no provision of hot water there, but also found that the hot water tap is loose. The loose fitting raises the risk of water entering the void below the bath and creating further problems. The hot water tap serving the bath is not in a reasonable state of repair. It is not in proper working order and it is part of the supply for hot water. The committee, as part of the repairing standard enforcement order, require the landlord to properly secure that loose tap.

(m) During the course of the hearing, the landlord's solicitor produced receipted invoices for various works carried out the property (narrated at 11(c) and 11(d) above). Committee members inspected the exterior of the property. The roofing works that had been carried out were carried out almost three years ago. Committee members could see that there are a number of slipped slates and chipped or broken slates on the roof. During the inspection of the bedroom, high damp meter readings were obtained from one small area of the ceiling adjacent to the window in the bedroom. Committee members' findings from the inspection indicate that it is likely that water has found its way through a compromised section of the roof, causing the isolated high damp meter readings on the ceiling in the bedroom. Committee members therefore come to the conclusion that the house is not wind and water tight and so does not comply with the requirements of Section 13(1)(a) of the Act. As part of the RSEO, committee members require the landlord to inspect, overhaul and repair the roof of the property in order to make the house wind and water tight.

(n) Taking account of the committee members' findings at inspection, & full account of the oral and documentary evidence presented by both the tenant and the landlord, committee members can only come to the conclusion that the landlord has not complied with the duties imposed by Section 14(1)(b) of the 2006 Act. The committee therefore makes a repairing standard enforcement order requiring the landlord to:

(a) To instruct an appropriately qualified contractor to carry out a standard electrical installation condition report on the property and to carry out any works which are shown to be necessary in terms of said report to bring the electrical installations and wiring throughout the property into a proper state of repair and to proper working order, with particular attention to the immersion heater, kitchen water heater, kitchen/living room extractor fan and loose socket. Thereafter to produce an electrical installation condition report dated after today's date;

(b) Replace the broken and rotten sections of wood on the external stair to the property and to fit an anti-slip surface on each of the step treads on that stair;

(c) Properly secure the loose hot water tap on the bath in the property;

(d) Inspect, overhaul and repair as necessary, the roof of the property;

All within six weeks of the RSEO.

Decision

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

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

14 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

15 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.

↵ P DOYLE

Signed..... Date..... 21/7/2015

Chairperson



Schedule of Photographs
32 Auchmill Road, Aberdeen AB21 9LD
Case Reference Number PRHP/RP/15/0072
Date: 09/07/2015



Figure 1 Rear Elevation



Figure 2 Rear Roof Slope



Figure 3 Rear Roof Slope



Figure 4 Rear Stair Overview



Figure 5 Rear Stair



Figure 6 Rear Stair



Figure 7 Bedroom



Figure 8 Rear Bedroom Ceiling



Figure 9 Rear Bedroom Ceiling Damp Reading

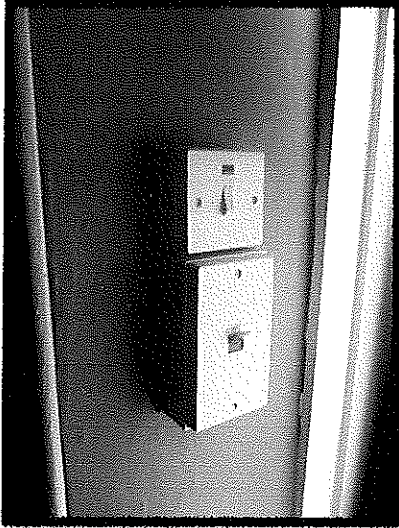


Figure 10 Painted Switches - kitchen/Lounge



Figure 11 Kitchen/Lounge Overview



Figure 12 Mould Behind Sofa