



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

prhp Ref: PRHP/RP/15/0086

Re: Property at 55 Middlefield Place, Aberdeen, AB24 4PN ("the Property")

Title No: ABN53809

The Parties:-

MR KRISS ROSS, 29 Straik Road, Elrick, Aberdeenshire, AB32 6JN ("the Landlord")

MISS AMBER RAZZAQ and MISS NADIYAH RAZZAQ both residing at 55 Middlefield Place, Aberdeen, AB24 4PN ("the Tenants")

NOTICE TO KRISS ROSS ("the Landlord")

Whereas in terms of their decision dated 29 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 ("The Act") and in particular that the landlord has failed to ensure that:-

- (a) The Property is wind and watertight and in all other respects reasonably fit for human habitation;
- (b) The structure of and exterior of the Property (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order;
- (c) Any furnishings provided by the landlord under the tenancy are capable of being used safely for the purpose for which they are designed;

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 carry out such works as were necessary to eradicate the dampness/condensation within the Property and to ensure that the Property was properly wind and watertight, fit for habitation and met the repairing standard.
- (b) To demolish and/or replace the wooden shed at the Property.
- (c) To repair or replace the gas meter cover at the Property.
- (d) To repair or replace the hallway carpet at the Property sufficient to meet the repairing standard.

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 29 June 2015 before this witness:-

S. CLACK

E. MILLER

witness

Chairman

—
v
Sheila Clack
Secretary
Thorntons Law LLP
Whitehall House
33 Yeaman Shore
Dundee
DD1 4BJ



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

prhp Ref: PRHP/RP/15/0086

Re: Property at 55 Middlefield Place, Aberdeen, AB24 4PN ("the Property")

The Parties:-

MISS AMBER RAZZAQ and MISS NADIYAH RAZZAQ both residing at 55 Middlefield Place, Aberdeen, AB24 4PN ("the Tenants")

MR KRISS ROSS, 29 Straik Road, Elrick, Aberdeenshire, AB32 6JN ("the Landlord")

Decision

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

Background

1. By application dated 7 March 2015 the Tenants applied to the Private Rented Housing Panel 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 Tenants stated that the Tenants 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 had failed to ensure that:-
 - (a) The Property is wind and watertight and in all other respects reasonably fit for human habitation;
 - (b) The structure of and exterior of the Property (including drains, gutters and external pipes) are in a reasonable state of repair and in proper working order;
3. By letter dated 9 April 2015 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 Landlord and the Tenants.
5. Following service of the Notice of Referral the Tenants made no material further written representations. The Landlord made written representations to the Committee.
6. The Private Rented Housing Committee (comprising Mr E K Miller, Chairman and Legal Member; Mr A Anderson, Surveyor Member; and Mrs L Robertson, Housing Member) inspected the Property on 4 June 2015. The Tenants were present. The Landlord was neither present nor represented.

7. Following the inspection of the Property the Private Rented Housing Committee held a hearing at The Credo Centre, 14-20 John Street, Aberdeen and heard from both the Tenants, the Landlord and his agent. The Landlord was accompanied by Mr James Taylor of Martin & Co, Letting Agents. The Tenant, Miss Nadiyah Razzaq represented herself and her cousin.
8. The Tenants submission was that the Property did not meet the repairing standard. Whilst the Tenants readily acknowledged that a number of issues had been attended to by the Landlord, there were outstanding issues in relation to the damp within the Property, the shed, a gas meter cover, heating and a lack of ventilation in the kitchen and bathroom.
9. The Landlord accepted that works were required to the Property and would be guided by the Committee in this regard. The Landlord explained that he was fully aware of his obligation to meet the repairing standard and was not intending to shirk away from that. He admitted that there had been issues in identifying the works that were required, particularly in relation to damp and that matters had not always been clear between himself and the letting agent. The agent stated that they had reacted to the tenants complaints by instructing contractors to provide quotes for remedial works, but had not actually attended the property to see the defects complained of for themselves. Works were ongoing in relation to the damp in particular and these were acknowledged to be the priority.

Summary of the issues

10. The issues to be determined were:-

- (1) Whether the Property was properly wind and watertight and fit for human habitation or was suffering from excessive damp/condensation.
- (2) Whether there was adequate ventilation in both the kitchen and bathroom.
- (3) Whether the shed at the Property was in a reasonable state of repair.
- (4) Whether the garden was water logged and failed to meet the repairing standard.
- (5) Whether there was adequate heating in the lounge.
- (6) Whether the gas meter cover on the exterior of the Property required to be repaired or replaced.
- (7) Whether the carpet in the hallway met the repairing standard.

Findings of fact

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

- The Property comprises a self-contained, ground floor flat within a two storey purpose built block containing a total of four flats. The building was built around 80 years ago and has cavity brick walls with a pitched and slated roof. Accommodation comprises Entrance Hall, Lounge with Kitchen off, Bathroom, Rear Bedroom, Front Bedroom.
- The Property was suffering from excessive damp and was not properly fit for human habitation.
- There was adequate ventilation within the kitchen and bathroom.
- The shed at the Property was dangerous and would require to be demolished or replaced.

- The garden at the Property met the repairing standard.
- There was adequate heating provided by the Landlord in relation to the lounge and the Property in general.
- The external gas meter cover did not meet the repairing standard.
- The carpet within the hallway did not meet the repairing standard.

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 rooms within the Property to ascertain whether there was damp. It was apparent to the Committee that there was damp generally in the external walls of the Property. High moisture readings were obtained in the lounge and both bedrooms to approximately three feet above floor level. It was apparent that works were ongoing in this regard as in the main bedroom the plaster had been stripped and a damp proof course and membrane installed. At the hearing the Landlord provided a report from Richardson & Starling which indicated the works that were being carried out. The Committee was satisfied that the matter was in hand and was being progressed but nonetheless, as at the date of the inspection, the repairing standard was not being met.

The Committee inspected both the bathroom and the kitchen. There did not appear to be any excessive moisture or condensation in either room. There were opening windows in both rooms. It is likely that the ventilation arrangements met any Building Regulations in force at the time of construction or installation of the windows. Accordingly, whilst it would be beneficial for the Property to have extractor fans in both of these rooms, it was not a necessity and the Property met the repairing standard in this regard.

The Committee inspected the shed at the Property, which was included in the current let. This was derelict and in a dangerous condition. It was leaning over at an angle and was clearly not watertight. A flex cable electricity extension lead was routed into the shed from the kitchen. The Committee was disappointed that neither the Landlord nor his agent had made a proper investigation into the condition of the shed. In the view of the Committee, the shed was beyond repair and would require to either be replaced with a new shed or simply removed and no new shed substituted. The Committee noted that the Tenants were leaving the Property shortly and accordingly a replacement shed did not need to be installed should the Landlord so elect. However, the existing unsafe shed could not remain.

The Tenant had complained that over the winter the garden had been extremely waterlogged and that there had been a burst pipe/sewage in the garden. The Landlord explained that he had investigated this and taken the matter up with Aberdeen City Council. He was of the view that it was caused by surface water run-off from the play park situated behind and uphill from the property. The Committee inspected the garden and it was in reasonable condition, was not waterlogged and there was no evidence of sewage. The Committee was prepared to accept the Landlord's explanation and did not find that there had been a breach of the repairing standard in this regard.

The Committee noted the Tenants had complained about a lack of heating in the lounge. There had previously been a gas fire there (prior to the tenancy commencing). The Landlord had provided an oil filled electric radiator as an alternative (again, prior to the tenancy commencing). The Tenants complained about the expense. The Committee noted there was no suggestion that the heater did not work and accordingly the Landlord had complied with his obligations and there was no breach of the repairing standard in this regard.

13. The Committee noted that the gas meter cover had blown off. The Committee was of the view that the cover was not in a reasonable state of repair as the gas meter and inlet

were exposed. A new cover would require to be fitted or the existing one repaired and reinstalled. At the hearing, the landlord had exhibited an order form for the replacement of the cover, but nonetheless, as at the date of the inspection, the repairing standard was not being met.

The Committee inspected the carpet in the hallway. This was loose and ill-fitting and was not secured adjacent to the doors to other rooms. This would require to be attended to as it was a trip hazard and did not meet the repairing standard as it was not capable of being used safely.

The Committee noted that there had been various other items of complaint such as window handles, the bathroom door, the front door lock, living room lights, etc. The Tenants confirmed that these had all been attended to.

The Committee discussed the period in which the Landlord would require to carry out the works. The Landlord indicated he was comfortable that they could be done within a month or so.

The Committee considered the matter and determined that two months should be an adequate period for the Landlord.

Decision

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

Right of Appeal

17. **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

18. 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.

E. MILLER

Signed
Chairperson

..... Date 29/6/15