



Repairing Standard Enforcement Order

Ordered by the Private Rented Housing Committee

Reference Number:- PRHP/RP/15/0088

Re: Property at Flat 2/1, 63 Arcadia Street, Glasgow, G40 1DX, all as more particularly described in and registered in Land Certificate GLA170966 (hereinafter referred to as “the property”).

The Parties:-

Miss Anna Koscianiuk (“the Tenant”)

Mr Khalil UR Rehman Malik, 1 Kirkdene Grove, Newton Mearns, Glasgow G77 5RW and Malik Properties Limited, 59 James Street, Glasgow G40 1BZ (“the Landlords”)

NOTICE TO

Mr Khalil UR Rehman Malik, 1 Kirkdene Grove, Newton Mearns, Glasgow G77 5RW and Malik Properties Limited, 59 James Street, Glasgow G40 1BZ (“the Landlords”)

Whereas in terms of their decision dated 17 May 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 the Landlord has failed to ensure that: the house is wind and watertight and in all other aspects fit for human habitation and any fixtures, fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order and the structure and exterior of the house are in a reasonable state of repair and in proper working order.

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 repair or replace all windows within the property to ensure that they open and close properly and are in proper working order to allow for proper ventilation of the property.
- (b) To repair the oven to ensure that it is in proper working order or, if necessary, to replace the oven.
- (c) To produce to the Committee an updated report from City Pest Solutions demonstrating that all follow up work has been carried out and that the pest infestation has been eradicated.
- (d) To repair the damaged section of flooring and vinyl covering in the kitchen so that it can be used safely for the purpose for which it was designed, or if necessary, to replace same.

The Private Rented Housing Committee order that the works specified in this Order must be carried out and completed within the period of 28 days 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 an 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 an RSEO has effect in relations to the house. This is in terms of Section 28(5) of the Act.

In witness whereof these presents type written on this page and the preceding page are executed by Patricia Anne Pryce, Chairperson of the Private Rented Housing Committee at Glasgow 31 May 2015 before this witness:-

P. PRYCE

Signed

Patricia Anne Pryce, Chairperson

N. PRYCE

Date

31/5/2015

31/5/15

NICHOLAS PRYCE
ACCOUNTANT



Reference Number: PRHP/RP/15/0088

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

Reference Number: PRHP/RP/15/0088

Re: Property at Flat 2/1, 63 Arcadia Street, Glasgow, G40 1DX, all as more particularly described in and registered in Land Certificate GLA170966 (hereinafter referred to as "the property").

The Parties:-

Miss Anna Koscianiuk ("the Tenant")

Mr Khalil UR Rehman Malik, 1 Kirkdene Grove, Newton Mearns, Glasgow G77 5RW and Malik Properties Limited, 59 James Street, Glasgow G40 1BZ ("the Landlords")

Decision

The Committee, having made such enquiries as it saw fit for the purpose 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 account of the evidence submitted by both the Landlord and the Tenant, determined that the Landlord has failed to comply with the duty imposed by Section 14 (1) (b) of the Act.

The Committee consisted of:-

Patricia Anne Pryce	-	Chairperson
Carol Jones	-	Surveyor Member
Christopher Harvey	-	Housing Member

Background

1. By application dated 6 March 2015, the Tenant applied to the Private Rented Housing Panel for a determination as to whether the Landlords had failed to comply with the duties imposed by Section 14 (1) (b) of the Act.
2. The application by the Tenant stated that the Tenant considered that the Landlords had failed to comply with his duty to ensure that the property meets the repairing standard and the Tenant brought forward the following breaches:-

That the bathroom floor had been affected by burst pipes which caused the floor to become rotten, damp and unstable, causing dampness which resulted in the toilet and shower being out of use.

That the couches provided by the Landlords in the living room were infested with insects, removed by the Landlords and not replaced.

That the seal of the oven in the kitchen was worn and peeling off.

That there was a hole the size of a tennis ball in the kitchen floor.

That the whole property was not properly ventilated causing mould to develop round most of the windows in the flat.

The Tenant considers that the Landlord is in breach of his duties under the Housing (Scotland) Act 2006 in relation to the repairing standard and in particular the Landlord has failed to ensure:-

- (i) The house is wind and watertight and in all other respects reasonably fit for human habitation.
 - (ii) Any fixtures, fittings and appliances provided by the Landlord under the tenancy are in a reasonable state of repair and in proper working order.
 - (iii) Any furnishings provided by the Landlord under the tenancy are capable of being used safely for the purpose for which they are designed.
3. By Minute dated 16 March 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. On 19 March 2015, the Private Rented Housing Committee (PRHC) wrote to the Landlords and to the Tenant to advise that the Private Rented Housing Committee intended to inspect the property on 14 May 2015 at 11 am. The letter further confirmed that a Hearing had been arranged in relation to the application, which Hearing would be held in the Office of the PRHP, Europa Building, 450 Argyle Street, Glasgow, G2 8LH commencing at 14:00. On 20 March 2015 the PRHC wrote to the both parties to advise them that the inspection and hearing would both still take place on 14 May 2015 but that the time for the hearing had been changed to 14.30.
 5. The Committee issued a Direction in terms of Schedule 2 Paragraphs 2(1) and 3(1)(b) of the Housing (Scotland) Act 2006 and Regulation 14 of the Private Rented Housing Panel (Applications and Determinations)(Scotland) Regulations 2007 to the parties that the Landlords required to provide to the Committee a report by a suitably qualified person detailing the existence or otherwise of pests within the property. The Landlords complied with that

Direction and produced to the Committee a report by City Pest Solutions dated 17 April 2015.

6. By letter dated 29 April 2015, received by the PRHP on 30 April 2015, the Tenant intimated that she wished to withdraw her application to the PRHP as the Landlords had carried out all of the repairs.
7. On 6 May 2015, the Committee by Minute of Continuation under Schedule 2 Paragraph 7(3) of the Housing (Scotland) Act 2006, decided that the application should be determined on public interest grounds given the nature of the allegations made by the Tenant, to ensure that the repairs have been carried out and completed to a satisfactory standard.
8. On 7 May 2015, the parties were advised of the Committee's decision to continue with consideration of the application and were sent a copy of the Committee's Minute of Continuation of 6 May 2015. In the letter of 7 May 2015, the parties were advised that the Tenant was treated as having withdrawn her application.

The Inspection

9. On 14 May 2015, the Committee attended at the property for the purposes of inspection of the property. The Tenant was present at the inspection along with her partner and her partner's sister. The Landlords did not attend the inspection.

At the inspection on 14 May 2015, the Committee noted the following points:-

- (a) The subjects comprise a three apartment flat situated on the second floor of a 4 storey flatted development.
- (b) The subjects comprise all on one level: Entrance Hallway, Lounge, Bedroom 1, Bedroom 2, Kitchen and toilet/shower room.
- (c) Repairs had been carried out to the toilet and shower room with the floor having been re-sheeted and new vinyl fitted, a new shower and cabinet installed and the both the toilet and shower were now functioning properly, according to the Tenant.
- (d) There were sofas in the living room. The Tenant advised that she had purchased them herself and that the previous sofas were not returned by the Landlords.
- (e) There was a pest trap located in the hall cupboard upon which there was located a German cockroach. There was insecticide gel which had been applied at different points throughout the property by a pest control company. The Committee could see no further signs of pests at the time of inspection.
- (f) The oven seal was hanging off and the Tenant advised that the oven simply did not work and had not worked for around two years.

- (g) There was a dislodged section of flooring in the kitchen which appeared to the Committee to be an access panel. This was uneven and had caused the vinyl to rip.
- (h) The windows throughout the property were in a poor state of repair and were causing ventilation problems throughout the property. In the living room, the largest window could not be opened at all. The window next to the largest window could be opened but could not be closed properly. In the main bedroom where the Tenant slept, the window was broken and, when it was opened, it opened very wide and was hanging off its hinges. In the second bedroom where the Tenant's two young sons slept, the window in this room did not open easily either. Throughout the property, the Committee noted that the trickle vents in all of the windows were open.

The Hearing

10. The Tenant did not attend the hearing as she had withdrawn her application. Mr Zuhayr Malik attended the hearing. He advised that he was the son of the Landlord, Mr Khalil Ur Rehman Malik, and that his father could not attend the hearing as his father was away on holiday. However, on being questioned by the Committee, Mr Malik confirmed that he was the Director of Malik Properties Limited and was designated as the Landlord in the tenancy agreement signed by the Tenant for the property dated 4 August 2014.

The Landlord advised that he did not attend the inspection as he felt that there was no need. The Committee went through both the application and the findings of the inspection with the Landlord. The Landlord confirmed that a new shower had been installed in the property along with new flooring in the shower/toilet room. The Landlord confirmed that all of the pipes had been repaired.

In relation to the pest control report produced by the Landlord by City Pest Solutions, the Landlord advised that there had been no follow up visit to the property as recommended in the said report. The Landlord advised that he received a message from the City Pest Solutions on 7 May 2015 wherein the company advised that follow up treatment should be carried out within seven to ten days from the 7 May 2015. The Landlord advised that he owns all four flats in a vertical row, of which the subject property is one, and there are no problems with pests in any of the other three properties.

In relation to the furniture being removed from the living room, the Landlord advised that he and his father had checked out the sofas and they were fine but that the Tenant refused to have them moved back in to the property. For clarification, he advised that the tenancy agreement signed by the Tenant dated 4 August 2014 is for an unfurnished let and therefore the Tenant was not entitled to sofas in any event. The Landlord explained that under the previous owner and letting agent for the property, the Tenant may have had a furnished let but she did not in terms of the current tenancy agreement which was in place and which had been produced to the Committee as part of the Tenant's application.

The Landlord helpfully accepted that the oven seal was broken and that the oven did not function. He advised the Committee that he put his hands up to this as an outstanding repair. He also accepted that he did not respond to the two letters he had received from the Polish lawyer on behalf of the Tenant wherein the various repairs issues were raised but provided no explanation as to why he had failed to respond to these letters.

The Landlord advised that he was unaware of the hole in the kitchen floor and advised that he did not know how long it had been there. When questioned further by the Committee, the Landlord advised that he had carried out an inspection of the property around two or three weeks before the hearing and that he saw some of the issues which were being discussed at the hearing but that he had forgotten about the hole of the kitchen floor. He advised that he was in fact aware of the existence of the hole but did not look at it.

The Committee questioned the Landlord about the issue of ventilation throughout the property and the existence of mould around the windows. The Committee advised the Landlord that the Committee had been unable to open certain windows within the property and had encountered great difficulty in trying to close other windows. The Landlord accepted that there were problems with the windows. The Landlord helpfully conceded that it was probable that the reason for dampness and mould within the property was due to the poor state of repair of the windows. The Landlord advised that in the other three flats he owned in the same building, there was only a difficulty with one other property where one of the windows did not open. Once again, the Landlord accepted that the windows in the property did not function properly.

The Landlord did not provide a reason as to why he had not addressed the issue of windows and ventilation within the property.

Discussion on Evidence

11. The Committee is satisfied on the evidence that the Landlords have failed to meet the repairing standard in respect of the property. At the time of inspection, at least four of the windows throughout the property did not function properly, hence the property was not wind and watertight and fit for human habitation. The Committee is satisfied that the oven did not function. The Committee is satisfied that part of the kitchen floor is damaged and the vinyl covering is ripped and amounts to trip hazard. It was of assistance to the Committee that the Mr Malik was remarkably honest when giving his evidence there were a number of repairs issues which remained outstanding in relation to the property. This was helpful to the Committee.

Given all of the circumstance, the Committee is satisfied that the property is not wind and watertight and in all other respects reasonably fit for human habitation and that the fixtures, fittings and appliances provided by the Landlords under the tenancy agreement are not in a reasonable state of repair or in good working order. Furthermore, although not included within the original application to the PRHP by

the Tenant, the Committee is satisfied that the structure and exterior of the house are not in a reasonable state of repair and in proper working order given the hole located in the kitchen floor of the property.

Decision

12. The Committee accordingly determines that the Landlord has 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 (1) of the Act.
13. The decision of the Committee was unanimous.
14. The Private Rented Housing Committee require the Landlord to carry out such works as are necessary to ensure that the property meets the Repairing Standard.
15. The Committee considered that it would be reasonable to allow a period of 28 days from the date of the RSEO to carry out these works.

Reasons for Decision

16. The Committee considers that the Landlords have had sufficient time to carry out all of the outstanding repairs. It is of concern to the Committee that the state of some of the windows within the property represent a potential danger to the Tenant's young children insofar as they could quite easily reach the windows which open wider than they should and could fall out from these windows. Furthermore, the Landlords have been aware of the problem with the oven for around 18 months and have failed to address this.

The Committee considers that the Landlord has failed in his duty under Section 14(1)(b) of the Act and has not complied with the repairing standard in terms of Sections 13 (1) (a), 13(1)(b) and 13 (1) (d) of that Act.

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.

P. PRYCE

Signed

Date 31 May 2015

Patricia Anne Pryce

